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WHAT: Free public briefings (approximately 3 hours) to present:

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN:	October 17 at 9:00 am and 1:30 pm
WHERE:	Office of the Federal Register Conference Room, 800 North Capitol Street NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS:	202–523–4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 60, No. 185
Monday, September 25, 1995

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

Issuance of Report on the NRC Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of NRC Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the *NRC Regulatory Agenda* for the period covering January through June, of 1995. This agenda provides the public with information about NRC's rulemaking activities. The NRC Regulatory Agenda is a compilation of all rules on which the NRC has recently completed action, or has proposed action, or is considering action, and of all petitions for rulemaking that the NRC has received that are pending disposition. Issuance of this publication is consistent with Section 610 of the Regulatory Flexibility Act.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936), Vol. 14, No. 1, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 512–2249 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 415–7163, toll-free number (800) 368–5642.

Dated at Rockville, Maryland, this 18th day of September 1995.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 95–23681 Filed 9–22–95; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 960

[No. 95–26]

Amendment of Affordable Housing Program Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Board) is finalizing the provisions of a proposed rule published in the Federal Register on July 28, 1995, amending, in part, the Board's regulation governing the operation of the Affordable Housing Program (AHP). The amendments contained in the proposed rule, and now adopted in final form, authorize a Federal Home Loan Bank (Bank) to set aside a limited portion of its available AHP subsidies to assist first-time homebuyers pursuant to a program meeting specific requirements set forth in the final rule. In addition, the final rule permits a Bank to establish a homeownership set-aside program with requirements different from those specifically set forth, subject to prior approval of the Board.

EFFECTIVE DATE: The final rule is effective on October 25, 1995.

FOR FURTHER INFORMATION CONTACT: Brandon B. Straus, Attorney-Advisor, Office of General Counsel, (202) 408–2589, or Diane E. Dorius, Deputy Director, Office of Housing Finance, (202) 408–2576, Federal Housing Finance Board, 1777 F Street, N.W., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish a program to subsidize the interest rate on advances to members of the Federal Home Loan Bank System (Bank System) engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. *See* 12 U.S.C. 1430(j)(1). The Board is required to promulgate regulations governing the Program. *See id.* § 1430(j)(9); 12 CFR part 960.

Under the Board's AHP regulation, each Bank must make a specified annual contribution to fund its AHP. *See* 12 CFR 960.10. During each calendar year, each Bank accepts applications for funds from its members during two of four quarterly funding periods, or ''rounds.'' *See* 12 CFR 960.4. Applications are reviewed and recommended, and AHP funds are awarded to applicants through a competitive scoring process set forth in the AHP regulation. *See* 12 CFR 960.5. AHP funds are awarded to the applicants whose applications score the highest among all the applications received by the Bank in that funding round. *See id.*

The Board believes that promoting homeownership for first-time homebuyers is a significant part of the mission of the Bank System. In furtherance of that goal, the Board and the Banks recently joined a partnership agreement to promote the President's National Homeownership Strategy to expand homeownership to millions of households by the year 2000. The Board believes that permitting the Banks to direct a portion of their AHP contribution to assist low- and moderate-income, first-time homebuyers is consistent with its commitment to the National Homeownership Strategy. Accordingly, on July 28, 1995, the Board published in the Federal Register a proposal to amend the AHP regulation to authorize a Bank to set aside a portion of its AHP contribution to assist low- and moderate-income, first-time homebuyers to purchase homes. *See* 60 FR 38768 (July 28, 1995).

II. Summary of Proposed Rule

The proposed rule generally would authorize each Bank to establish a Matched Savings First-Time

Homebuyers' Initiative (Initiative), according to the specific requirements set forth in the proposed rule, under which the Bank would set aside up to the greater of $1 million or 10 percent of its annual required AHP contribution to be used as matching funds for first-time homebuyers' savings deposits maintained with a Bank member. The proposed rule also would authorize the Banks to establish first-time homebuyer programs with different requirements from those applicable to an Initiative (non-conforming homeownership set-aside programs), with prior approval of the Board.

Under the proposed rule, each dollar of a participating household's savings would be matched by the member with up to three dollars of AHP funds, but no more than $5,000, to be used by the household to pay for downpayment and closing costs in connection with its first-time purchase of a one-to-four family, owner-occupied property (including a condominium or cooperative housing unit) used as its primary residence. Each Bank would have discretion to determine the appropriate ratio of AHP funds-to-savings of a participating household (with a maximum of three-to-one), which ratio shall apply to all households participating in the Bank's initiative.

Under the proposed rule, members could be pre-approved for participation in an Initiative if they have: (1) Established a dedicated savings account program for eligible households; (2) established a first-time homebuyer policy that defines the qualifications for being a ''first-time'' homebuyer and that includes financial and other incentives for such first-time homebuyers; and (3) have established or sponsor a homebuyer counseling program.

Under the proposed rule, in order to enroll initially in the program, a household would be required to: (1) Have an income at or below 80 percent of the area median income; (2) meet the requirements of the member's first-time homebuyer policy, (3) open a dedicated savings account with a participating member and agree to a savings schedule; (4) enroll in a homebuyer counseling program; and (5) agree to obtain mortgage financing from the member for the purchase of the home. If, after six months from enrollment, a household were progressing satisfactorily according to its agreed-upon schedule of savings, the Bank would be required to reserve matching AHP funds, as targeted in the savings schedule, in the name of the household, and the household would be notified of acceptance into the Initiative. The household, however, could not draw down the matching funds unless it had saved for a minimum period of 10 months. The proposed rule would require a household to use matching funds to purchase a home within one year of acceptance in the Initiative (which occurs six month's after initial enrollment with the member), or a longer period if the Bank determined that reasonable circumstances justified extension beyond one year.

Under the proposed rule, a home purchased by a participating household with funds received under an Initiative must be subject to a deed restriction, ''soft'' second mortgage, or other legally enforceable mechanism, pursuant to the requirements set forth in the proposed rule, that would enable the Bank to recapture from the member or directly from the seller a *pro rata* portion of those funds if the home were sold by the initial household to a household that is not low- or moderate-income, within 5 years (or longer, at the discretion of the Bank) from the date of purchase by the participating household. The proposed rule would allow for Bank waiver of the recapture requirement if its imposition would cause undue hardship on the seller.

Under the proposed rule, a Bank would make matching funds available on a rolling, first come, first-served basis. A Bank could make available up to $1 million of additional AHP funds from the next year's Initiative set-aside if demand for funds under the Initiative exceeded the amount set aside in the current year.

III. Analysis of Public Comments and Summary of the Final Rule

The Board requested public comment, generally, on all aspects of the proposed rule, and specifically requested comment on four specific issues addressed in the proposal: (1) Whether a 5-year retention period for housing assisted under an Initiative is appropriate; (2) whether a Bank should be permitted to commit its AHP contributions from future years if demand for Initiative funds in a given year exceeds that year's set-aside; (3) whether non-conforming set-aside programs should be limited to programs assisting first-time homebuyers or should be permitted to assist other kinds of activities related to homeownership that promote the National Homeownership Strategy; and (4) whether the funding limit established by the proposed rule is appropriate generally, and whether this limit should apply also to non-conforming set-aside programs.

General Comments

The Board received 32 comment letters on the proposed rule. Twenty-six commenters generally supported the proposal. Six commenters, including one Bank, two Bank members, two not-for-profit housing organizations and a real estate company did not support the set-aside of AHP funds for specific purposes. In general, these commenters opposed the proposal because it would reduce the amount of funds generally available to finance other affordable housing projects and activities that would not qualify under the set-aside.

The Board believes limited set-asides are an appropriate way for the Banks to direct AHP funds to specific activities that promote the goals of National Homeownership Strategy and are consistent with the goals of the AHP. Further, the authority for the Banks to establish set-asides for homeownership programs is entirely voluntary. Therefore, a Bank need not establish such a program if it determines that a set-aside is not appropriate in its district. Accordingly, the Board is finalizing the set-aside proposal set forth in the proposed rule with the following changes, taking into account comments received from the public.

Long-Term Retention

Nineteen commenters supported a 5-year retention period for housing assisted under an Initiative. Among these commenters were seven Banks, seven Bank members, one banking trade association, one Bank Advisory Council, one Community Development credit union, and one city. Among the reasons cited by the supporters of a 5-year retention period were that a 5-year retention period: allows a household to build equity in a home; provides a greater incentive for a homeowner to improve his or her property, whereas a longer retention term removes that incentive; reduces the monitoring requirements for the Bank member and the Bank; and eases the potential recapture responsibility of Bank members.

Three commenters supported a retention period longer than 5 years. One commenter supported a 10-year retention period to prevent real estate speculation. Another commenter suggested that a 10-year period would not place an undue monitoring burden on the Banks and would result in a more equitable distribution of AHP funds. One commenter supported a 15-year period, citing the scarcity of resources for low-income housing.

Based on commenters' general support for a 5-year retention period,

the final rule adopts this as the minimum requirement. Further, one Bank member suggested that the provision in the proposed rule exempting a household from the recapture requirement if it sells its home to an income-eligible household within the five-year period creates an unnecessary burden on the member to have to determine the income eligibility of such future home purchasers. The Board also notes that even in cases where the purchasing household does qualify as income-eligible, the subsidy initially received by the seller is not passed on to the purchaser. Therefore, the final rule requires that in all cases where a participating household sells its home prior to the end the 5-year retention period, the household must repay a *pro rata* portion of the funds it received under the Initiative.

Commitment of AHP Contributions From Future Years

Of the 14 comments addressing this issue, the majority specifically supported the provision in the proposed rule permitting a Bank to commit its AHP contributions from future years if demand for Initiative funds in a given year exceeds that year's set-aside. Several commenters noted concern about the potential oversubscription of an Initiative.

In order to address this issue, the final rule requires each Bank to establish a policy that ensures that the Bank enrolls no more households in its Initiative than the Bank can fund with the amount of funds set aside by the Bank for the Initiative in a given year. Under such a policy, the Bank should make projections of the amount of funds necessary to fund all the households enrolled in an Initiative in a given year, so that all enrolled households receive funds according to the agreed-upon savings goals established upon enrollment. The final rule also provides that in cases where demand for Initiative funds in a given year exceeds the amount of set-aside funds available for that year, the Bank may: (1) Make available up to an additional $1 million from the next year's set-aside of funds under such initiative; and/or (2) establish a waiting list for households meeting the requirements for enrollment, provided that the Bank clearly inform households on the waiting list that there is no guarantee that they will be enrolled.

Non-Conforming Homeownership Set-Aside Programs

The Board specifically requested comment on whether other, nonconforming set-aside programs proposed by a Bank under § 960.5(g)(2) of the proposed rule should be limited to programs that assist first-time homebuyers, or whether it would be practicable to broaden the language of the proposal to allow for assistance to be provided to other categories of activities related to homeownership that promote the National Homeownership Strategy, such as improving and rehabilitating existing homes and encouraging homeownership strategies that revitalize distressed communities.

Approximately one-third of the commenters supported a homeownership set-aside that did not meet the specific requirements of the matched savings model. Some cited the need for rehabilitation as a community revitalization strategy and/or the need for additional alternatives to meet the goals of the National Homeownership Strategy. Eighteen commenters were opposed to limiting the set-asides to first-time homebuyers, citing the need for renovation of existing homes and revitalization of communities. Two commenters, a Bank and its Advisory Council, supported permitting Banks to set aside AHP funds for disaster relief or other programs to address local needs.

The Board believes that it is appropriate to limit the set-aside to uses consistent with the National Homeownership Strategy. Therefore, the Board has decided to retain the first-time homebuyer requirement for Initiatives established under § 960.5(g)(1). However, the final rule provides that nonconforming homeownership set-aside programs established by a Bank under § 960.5(g)(2) may include homeownership programs that meet those goals of the National Homeownership Strategy that, in the Board's determination, are consistent with the goals and requirements of section 10(j) of the Bank Act, such as providing funds for the purchase or rehabilitation of homes by income-eligible first-time homebuyers and homeowners currently living in overcrowded conditions, unsanitary or unsound premises, unsafe neighborhoods, or neighborhoods that do not offer adequate economic or educational opportunities.

Amount of Available Funds

The Board specifically requested comment on whether the funding limit of the greater of $1 million or 10 percent of a Bank's annual required AHP contribution: (a) Is appropriate generally; and (b) should apply to other, non-conforming set-aside programs under proposed § 960.5(g)(2), or whether the funding limits for such other programs should be left to the discretion of the Board. Among the eight commenters addressing this issue, there was general support for the funding limit as applied to an Initiative, but there was not a clear consensus on whether this limit should apply also to a nonconforming set-aside program. One commenter supported allowing the Board to determine the limit for nonconforming homeownership set-aside programs, and two commenters suggested allowing the Banks to determine the limit. The final rule provides that total funding for an Initiative established by a Bank under § 960.5(g)(1) shall be limited to the greater of $1 million or 10 percent of a Bank's annual required AHP contribution. Funding limits for nonconforming homeownership set-aside programs proposed by a Bank under § 960.5(g)(2) shall be subject to Board approval.

Comments on Other Provisions of the Proposed Rule

Two commenters suggested that the Board should define ''first-time homebuyer,'' rather than permitting each member to establish its own definition, in order to ensure uniform application of the definition. Commenters also suggested that the definition include victims of domestic violence and single heads of households who are in the process of dissolving their marriages and that the definition be consistent with the requirements governing federal tax-exempt mortgage revenue bonds (MRB). *See* 26 U.S.C. 143(d). In order to establish uniformity within and among the Bank's Initiatives, the Board is adopting the definition of ''first-time homebuyer'' contained in the Cranston-Gonzalez National Affordable Housing Act of 1990, *see* Pub. Law 101–625, sec. 104(14), 104 Stat. 4079, 4087 (Nov. 28, 1990) (codified at 42 U.S.C. ch. 130). This definition is consistent with the requirements governing MRBs.

Two Bank members suggested that households with sufficient existing savings should be permitted to receive matching funds without being required to participate in a savings program over time. One not-for-profit housing organization specifically supported the minimum time requirement for savings as a mechanism to help avoid defaults by households that rush into home purchases. The final rule retains the proposed provisions governing the required minimum period for savings. Nothing in the final rule would preclude a household from using existing savings to make deposits in its dedicated savings account established with the member. Further, a program

with alternative savings requirements could be considered by the Board as a nonconforming homeownership set-aside program proposed by a Bank under § 960.5(g)(2).

Some commenters cited the need for flexibility in the savings goal, since some households may experience circumstances that limit their capacity to save on a regular schedule, such as seasonal employment. The final rule clarifies that a household need not make equal deposits of funds at uniform intervals in order to meet the requirement that it make satisfactory progress towards meeting its savings goal. The final rule requires that a household make satisfactory progress in making deposits in its dedicated savings account in a manner that is consistent with the goals of its agreed-upon savings schedule.

Five commenters, including three Bank members, suggested that the requirement that a household purchase a home within one year of acceptance into an Initiative does not allow sufficient time for a household to meet its savings goal and then locate and close on a suitable home. Commenters recommended allowing longer periods ranging from 18 to 36 months. Accordingly, the final rule changes the deadline for the use of Initiative funds to 2 years from the date the Bank reserves matching funds in the name of the household.

One commenter stated that the requirement in the proposed rule that a Bank member verify a household's progress in meeting its savings schedule every six months from the *date* of *each* household's acceptance into the Initiative would create an undue burden on the member. The commenter suggested that the member be allowed to set two dates at six-month intervals during the year on which to verify the progress of all households in that member's program. The final rule reflects this change.

Two commenters suggested that the maximum amount of matching funds per household permitted under the proposed rule would be too low, especially in areas with high housing costs. Because a program with a higher matching ratio or a higher dollar limit could be considered for approval by the Board under § 960.5(g)(2), the Board has retained the matched savings requirement for an Initiative in the final rule.

One commenter requested that the proposed rule permit a participating household to obtain a mortgage through an MRB program or from a not-for-profit organization that provides lower-cost funds. The Board believes that member involvement in mortgage lending for participating households encourages members to be more active in the AHP and in financing affordable housing generally. Lending under an Initiative also will help members meet their obligations under the Community Reinvestment Act. A number of MRB programs use financial institutions to make loans under those programs. Therefore, a member would not be precluded from using an MRB program or collaborating with another funding source to fund a loan it makes to a household under an Initiative. Further, a nonconforming set-aside program allowing the use of a funding source in place of a member could be considered by the Board under § 960.5(g)(2). Therefore the final rule retains the provision of the proposed rule requiring a household receiving funds under an Initiative to agree to obtain mortgage financing from the member with whom it maintains its dedicated savings account. The final rule adds new provisions requiring that mortgage loans provided by members in connection with the use of funds provided under an Initiative shall not be priced above the market rate for a loan of similar maturity and terms.

IV. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of ''small entities,'' as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, *see id.* § 605(b), the Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 960

Banks, banking, Credit, Federal home loan banks, Housing.

Accordingly, chapter IX, title 12, subchapter E, Code of Federal Regulations, is hereby amended as follows:

SUBCHAPTER E—AFFORDABLE HOUSING

PART 960—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 960 is revised to read as follows:

Authority: 12 U.S.C. 1422a, 1422b, 1430(j).

2. Section 960.4 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 960.4 Applications for funding.

(a) Except as provided in § 960.5(g), the Program is based on District-wide competitions administered by the Board. * * *

* * * * *

3. Section 960.5 is amended by adding a new paragraph (g) and by revising paragraph (a)(1) to read as follows:

§ 960.5 Project scoring and funding.

(a) *General.* (1) Each Bank will evaluate all applications received pursuant to § 960.4(a) from its members that satisfy the use provisions identified in § 960.3(b).

* * * * *

(g) *Set-aside programs.* Programs established by a Bank under this paragraph (g) shall be priority projects under section 10(j)(3) of the Federal Home Loan Bank Act. For purposes of this paragraph (g), the term ''first-time homebuyer'' means a first-time homebuyer as defined in 42 U.S.C. 12704(14).

(1) *Programs exempt from prior Board approval.* Without the prior approval of the Board, a Bank may set aside annually up to the greater of $1 million or 10 percent of its annual required Affordable Housing Program contribution to fund a matched savings first-time homebuyers' initiative that meets all of the following requirements:

(i) *Announcement of available Bank funds.* The Bank shall notify its members of the amount of annual funds available under the initiative;

(ii) *Pre-approval of member participants.* The Bank shall approve a member's participation in the initiative if the member has:

(A) Established a savings account program offering dedicated savings accounts to eligible households;

(B) Established a first-time homebuyer policy that includes financial or other incentives for first-time homebuyers;

(C) Established a homebuyer counseling program based on those offered by or in conjunction with a not-for-profit housing agency or other recognized counseling organization;

(D) Committed that the Bank or member participant will be entitled to recapture of the equivalent amount of the matching funds, as provided in paragraph (g)(1)(xi) of this section;

(iii) *Approval of initial enrollment of households.* Subject to a Bank's policy established under paragraph (g)(1)(iv) of this section, the Bank shall approve the initial enrollment, through the approved member participant, of a household as a potential beneficiary in the initiative, if the household:

(A) Is low- or moderate-income, as defined in § 960.1(g), and is a first-time homebuyer, as of the date of enrollment;

(B) Has opened a dedicated savings account with the member participant and established a schedule of savings into the account;

(C) Has enrolled in a homebuyer counseling program established by the member participant that is based on those offered by or in conjunction with a not-for-profit housing agency or other recognized counseling organization; and

(D) Has agreed to obtain mortgage financing from the member participant for the purchase of a home;

(iv) *Establishment of Bank policy on enrollment.* The Bank shall establish a policy that ensures that the Bank enrolls no more households in its initiative than the Bank can fund with the amount of funds set aside by the Bank for the initiative in a given year;

(v) *Bank reservation of matching funds six months after initial enrollment.* The Bank shall reserve, in the name of the household, matching funds as targeted in the household's schedule of savings for a given year, and shall notify the member participant and household of such reservation, if, six months after the initial enrollment of the household (or, in cases of households enrolled after being on a waiting list under paragraph (g)(1)(x)(B)*(2)* of this section, and who, for a period of at least six months, have contributed to a dedicated savings account with a member participant), the member participant certifies to the Bank that the household is progressing satisfactorily by participating in the homebuyer counseling program and depositing funds to its dedicated savings account consistent with the goals of its agreed schedule of savings;

(vi) *Verification of household progress.* The Bank shall require the member participant to verify, semi-annually, each participating household's satisfactory progress in completing the homebuyer counseling program and making deposits to its dedicated savings account consistent with the goals of its agreed schedule of savings;

(vii) *Approval of matching funds drawdown.* The Bank shall approve a request from a member participant for matching funds, and shall credit such funds to the member participant's account, if the member participant certifies to the Bank that:

(A) The household made deposits to its dedicated savings account consistent with the goals of its agreed schedule of savings for a minimum of ten months;

(B) Closing on the sale of a home to the household is scheduled to occur within two years of the date the Bank reserved matching funds in the name of the household, or a longer period if the Bank determines that reasonable circumstances (such as unforeseen hardship, inability to locate a suitable home, or delays in closing on the sale) justified extending such time period for the use of the funds;

(C) The household has completed the required homebuyer counseling program;

(D) The household has received the financial or other incentives committed by the member participant pursuant to its first-time homebuyer policy, and the interest rate on the mortgage loan provided by the member to the household does not exceed the market rate for a loan of similar maturity and terms;

(E) A deed restriction, ''soft'' second mortgage or other legally enforceable mechanism exists on the household's home that entitles the Bank or member participant to recapture of the equivalent amount of the matching funds, as provided in paragraph (g)(1)(xi) of this section;

(viii) *Amount of matching funds.* Each Bank shall determine the amount of matching funds that it will provide to households receiving funds under its initiative, which amount shall not exceed the lesser of three times the amount of a household's savings in its dedicated savings account or $5,000;

(ix) *Eligible uses of funds.* Households receiving funds under an initiative may use such funds only for the payment of downpayment or closing costs in connection with the household's purchase of a one-to-four family, owner-occupied residential property (including a condominium or cooperative housing unit) to be used as its primary residence;

(x) *Availability of funds.* In making initiative funds available:

(A) The Bank shall make such funds available on a rolling, first-come, first-served basis;

(B) In cases where demand for initiative funds in a given year exceeds the amount of set aside funds available for that year, the Bank may:

(*1*) Make available up to an additional $1 million from the next year's set-aside of funds under such initiative; and/or

(*2*) Establish a waiting list for households meeting the requirements for enrollment, provided that the Bank clearly inform households on the waiting list that there is no guarantee that they will be enrolled;

(xi) *Long-term requirement—recapture of funds upon resale.* The Bank shall require that a home purchased using funds under an initiative be subject to a deed restriction, ''soft'' second mortgage or other legally enforceable mechanism that requires that, if the home is sold prior to the end of a period of not less than 5 years (or such longer period as the Bank may determine in establishing its initiative) from the date of purchase by the initial household:

(A) The Bank or its designee be given notice of the sale; and

(B) The seller be required to repay a pro rata share, except for de minimis amounts determined by the Bank, of the funds provided under the initiative, reduced for every year the seller owned the home, to be repaid from any net gain from the sale of the home after deduction for sales expenses, and to be returned to the Bank to be made available to other households under the Initiative or to other Affordable Housing Program projects, except that the Bank in its discretion may waive such repayment requirement if its imposition would cause undue hardship on the seller, as defined by the Bank;

(xii) *Bank implementation procedures.* Each Bank may establish its own procedures for further implementation of the requirements of this paragraph (g)(1).

(2) *Nonconforming homeownership set-aside programs.* A Bank may set aside a portion of its annual required Affordable Housing Program contribution, in an amount approved by the Board, to implement a homeownership program that does not meet the requirements of paragraph (g)(1) of this section, provided the program satisfies the requirements of 12 U.S.C. 1430(j); meets those goals of the National Homeownership Strategy that, in the Board's determination, are consistent with the goals of the AHP; and receives the prior approval of the Board.

Dated: September 14, 1995.

By the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 95–23390 Filed 9–22–95; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–117; Special Condition No. 25–ANM–107]

Special Condition: Boeing Model 727–100, High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition, request for comments.

SUMMARY: This special condition is issued for the Boeing Model 727–100 airplane. This airplane, as modified by Associated Air Center, utilizes new avionics/electronic systems, such as the electronic flight information systems (EFIS), which perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). This special condition contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of this special condition is September 14, 1995. Comments must be received on or before October 25, 1995.

ADDRESSES: Comments on this special condition may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–117, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–117. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Tim Backman, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (206) 227–2797; facsimile (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making this special condition effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. This special condition may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM–117.'' The postcard will be date stamped and returned to the commenter.

Background

On May 16, 1995, Associated Air Center (AAC), PO Box 54078, Dallas, Texas 75354, applied for a Supplemental Type Certificate (STC) to incorporate changes to the Boeing Model 727–100 airplane. The proposed modification includes the installation of digital avionics, including an Electronic Flight Instrument System (EFIS), which is vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Boeing Model 727–100 series airplanes are listed on Type Certificate (TC) A3WE. The airplanes are pressurized, 131 passenger, large commercial transport type airplanes having a maximum operating altitude of 42,000 feet. The airplanes are powered by three aft fuselage-mounted turbojet or turbofan engines, depending on the specific model and airplane configuration.

Type Certification Basis

Under the provision of § 21.101 of 14 CFR part 21, AAC must show that the modified Boeing 727–100 continues to meet the applicable provisions of the regulations incorporated by reference in TC A3WE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC A3WE are as follows: CAR 4b, dated December 31, 1953, including Amendments 4b–1 thru 4b–11, and Special CAR SR–422B. In addition, the certification basis includes § 25.1316, as added by Amendment 25–80, and may also include exemptions and other special conditions that are not relevant to this special condition. This special condition will form an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., CAR 4b or Part 25, as amended) do not contain adequate or appropriate safety standards for the Boeing Model 727–100 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Boeing Model 727–100 incorporates new avionic/electronic systems, such as the electronic flight instrument system (EFIS), that perform critical functions. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, a special condition is needed for the Boeing Model 727–100, as modified by AAC, which requires that new electrical and electronic systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based

on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated:

Fequency	Peak (V/M)	Aver-age (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2 MHz	70	70
2 MHz–30 MHz	200	200
30 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1 GHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, this special condition is applicable to the Boeing Model 727–100 airplane, as modified by AAC. Should AAC apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A3WE to incorporate the same novel or unusual design feature, this special condition would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Boeing Model 727–100 airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of the special condition for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting this special condition immediately. Therefore, this special condition is being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, and 49 U.S.C. 106(g).

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Boeing Model 727–100, as modified by Associated Air Center.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of this special condition, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, WA, on September 14, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–23732 Filed 9–22–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 95–ACE–8]

Change Time of Designation for Restricted Areas R–3601A and R–3601B, Brookville, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the time of designation of a final rule that was published in the Federal Register on August 11, 1995, Airspace Docket No. 95–ACE–8.

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Jim Robinson, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 493–4050.

SUPPLEMENTARY INFORMATION: Federal Register Document 95–19904, Airspace Docket No. 95–ACE–8, published on August 11, 1995 (60 FR 40994), reduced the time of designation for Restricted Areas R–3601A and R–3601B, Brookville, KS. The time of designation was in error. This correction changes the time of designation for R–3601A and R–3601B from ''Monday through Friday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance'' to read ''Monday through Saturday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.''

Correction of Final Rule

Accordingly, pursuant to the authority delegated to me, the time of designation for Restricted Areas R–3601A and R–3601B, Brookville, KS, published in the Federal Register on August 11, 1995 (60 FR 40994; Federal Register Document 95–19904, Columns 2 and 3) is corrected as follows:

§ 73.36 [Corrected]

* * * * *

R–3601A Brookville, KS [Corrected]

By removing the ''Time of designation. Monday through Friday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.'' and substituting the following: ''Time of designation. Monday through Saturday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.''

R–3601B Brookville, KS [Corrected]

By removing the ''Time of designation. Monday through Friday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.'' and substituting the following: ''Time of designation. Monday through Saturday, 0900 to 1700 local time; other times by NOTAM 6 hours in advance.''

* * * * *

Issued in Washington, DC, on September 15, 1995.

Reginald C. Matthews,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–23607 Filed 9–22–95; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 31, 140, 144, 145, 146, 147, 148, 149, 155, 170, 171 and 190

Commission Headquarters Office; Change of Address

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is amending its regulations to include the new address and, where appropriate, new office and telephone numbers for its relocated Headquarters Office.

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Stacy Yochum, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC, 20581, (202) 418–5157.

SUPPLEMENTARY INFORMATION: Commission regulations are being amended to reflect the fact that the Headquarters Office of the Commission has been moved. The Commission previously occupied space at both 2033 K Street, NW. and 2000 L Street, NW., Washington, DC. All headquarters offices will now be located at Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.

List of Subjects

17 CFR Part 1

Brokers, Consumer protection, Reporting and recordkeeping requirements.

17 CFR Part 145

Confidential business information, Freedom of information.

17 CFR Part 147

Sunshine Act.

Based upon the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j), the Commission hereby amends 17 CFR Chapter I of the Code of Federal Regulations as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, 24.

§ 1.62 [Amended]

2. Section 1.62, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 1.65 [Amended]

3. Section 1.65, paragraph (d) is amended by removing ''2033 K Street NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 1.70 [Amended]

4. Section 1.70, the concluding text of both paragraphs (a) and (b) is amended by removing ''2033 K Street NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

5. Section 1.70, paragraph (c) is revised to read as follows:

§ 1.70 Notification of State enforcement actions brought under the Commodity Exchange Act.

* * * * *

(c) Where it is impracticable to provide the Commission with written notice within the time period specified in paragraph (b) of this section, the authorized state official must inform the Secretary of the Commission by telephone as soon as practicable to institute a proceeding in state court and must send the written notice required in paragraph (b)(1) through (b)(3) of this section by facsimile or other similarly expeditious means of written communication to the Secretary of the Commission, prior to instituting the proceeding in state court.

* * * * *

6. Section 1.70, paragraph (d) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

Appendix B to Part 1—[Amended]

7. Paragraph (c) of appendix B to part 1 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 3—[AMENDED]

§ 3.33 [Amended]

1. Section 3.33, paragraph (e) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 3.50 [Amended]

2. Section 3.50, paragraph (c) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 3.70 [Amended]

3. Section 3.70, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 4—[AMENDED]

§ 4.2 [Amended]

1. Section 4.2, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 5—[AMENDED]

Appendix B to Part 5—[Amended]

1. Appendix B to part 5, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

Appendix C to Part 5—[Amended]

2. Appendix C to part 5, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 9—[AMENDED]

§ 9.4 [Amended]

1. In § 9.4, paragraph (a) each of the two occurrences of the phrase ''2033 K Street, NW., Washington, DC 20581'' is removed and ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' is added in each place.

§ 9.11 [Amended]

2. Section 9.11, paragraph (c) is amended by removing ''2033 K St., NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 11—[AMENDED]

Appendix A to Part 11—[Amended]

1. Appendix A to part 11 is amended by removing ''2033 K St., NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 12—[AMENDED]

§ 12.3 [Amended]

1. Section 12.3 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 12.10 [Amended]

2. In § 12.10, paragraph (a)(2), each of the two occurrences of the phrase ''2033 K Street, NW., Washington, DC 20581'' is removed and ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' is added in each place.

§ 12.13 [Amended]

3. Section 12.13, paragraph (b)(3) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 12.18 [Amended]

4. Section 12.18, paragraph (e) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 13—[AMENDED]

§ 13.2 [Amended]

1. Section 13.2 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 14—[AMENDED]

§ 14.9 [Amended]

1. Section 14.9 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 15—[AMENDED]

§ 15.05 [Amended]

1. Section 15.05, paragraph (d) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 31—[AMENDED]

Appendix A to Part 31—[Amended]

1. Appendix A to part 31, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 140—[AMENDED]

§ 140.1 [Amended]

1. Section 140.1, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 144—[AMENDED]

§ 144.1 [Amended]

1. Section 144.1, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 145—[AMENDED]

1. The authority citation for part 145 continues to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); Pub. L. 99–570, unless otherwise noted.

§ 145.6 [Amended]

2. Section 145.6, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581. The telephone number of the compliance staff is (202) 254–3382.'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

Appendix A to Part 145—[Amended]

3. The introductory text of appendix A to part 145 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

4. Appendix A to part 145, paragraph (a) is amended by removing the heading ''Office of Communication and Education Services'' and by adding ''Office of Public Affairs'' in its place.

5. Appendix A to part 145, paragraph (b) is amended by removing the heading ''Office of the Secretariat, room 304 (Public reading area with copying facilities available)'' and by adding ''Office of the Secretariat, room 4072 (Public reading area with copying facilities available)'' in its place.

6. Appendix A to part 145, paragraph (c) is amended by removing the heading ''Executive Director, Office of Proceedings, 2000 L Street, NW., Washington, DC'' and by adding ''Office of Proceedings'' in its place.

Appendix C to Part 145—[Amended]

7. Appendix C to part 145, Schedule of Fees for Reports, is removed.

Appendix D—[Amended]

8. Appendix D to part 145, paragraph (c), is revised to read as follows:

Appendix D to Part 145—Schedule of Fees for Weekly Advisory Calendar

* * * * *

(c) Payment shall be made by check or money order in the amount of $65.00 made payable to the Commodity Futures Trading Commission. Checks or money orders should be sent to the Office of Public Affairs, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Payment may be accepted only by personnel in the Office of Public Affairs.

PART 146—[AMENDED]

§ 146.3 [Amended]

1. Section 146.3, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 146.4 [Amended]

2. Section 146.4, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 146.5 [Amended]

3. Section 146.5, paragraph (f) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 146.6 [Amended]

4. Section 146.6, paragraph (d) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 146.8 [Amended]

5. Section 146.8, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

6. Section 146.8, paragraph (d) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 146.9 [Amended]

7. Section 146.9, paragraph (c) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 146.11 [Amended]

8. Section 146.11, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

Appendix A to Part 146—[Amended]

9. Appendix A to part 146, paragraph b. is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 147—[AMENDED]

1. The authority citation for part 147 continues to read as follows:

Authority: Sec. 3(a), Pub. L. 94–409, 90 Stat. 1241 (5 U.S.C. 552b); sec. 101(a)(11), Pub. L. 93–463, 88 Stat. 1391 (7 U.S.C. 4a(j) (Supp. V, 1975), unless otherwise noted.

2. Section 147.4, paragraph (d)(1) is revised to read as follows:

§ 147.4 Procedure for announcing meetings.

* * * * *

(d)* * *

(1) A public calendar shall be printed and distributed by the Commission on a regular basis to interested persons to provide advance public notice of meetings as required by paragraph (a) of this section, and, to the extent practicable, as required by paragraphs (b) and (c) of this section. Upon request in writing to the Office of Public Affairs, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, any person or organization will be sent the public calendar on a regular basis free of charge. Copies of the public calendar also will be publicly available in the Commission's Office of Public Affairs.

* * * * *

§ 147.5 [Amended]

3. Section 147.5, paragraphs (h) and (i) are amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 147.6 [Amended]

4. Section 147.6, paragraph (c) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 147.8 [Amended]

5. Section 147.8, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 147.9 [Amended]

6. Section 147.9, paragraph (b) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 148—[AMENDED]

§ 148.30 [Amended]

1. Section 148.30 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 149—[AMENDED]

§ 149.170 [Amended]

1. Section 149.170, paragraph (c) is amended by removing ''2033 K Street, NW., Room 202, Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 155—[AMENDED]

§ 155.5 [Amended]

1. Section 155.5, paragraph (d)(1) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 170—[AMENDED]

§ 170.11 [Amended]

1. Section 170.11, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 171—[AMENDED]

§ 171.3 [Amended]

1. Section 171.3 is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

§ 171.8 [Amended]

2. Section 171.8, paragraphs (a) and (b) are amended by removing ''2000 L. Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

PART 190—[AMENDED]

§ 190.10 [Amended]

1. Section 190.10, paragraph (a) is amended by removing ''2033 K Street, NW., Washington, DC 20581'' and by adding ''Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581'' in its place.

The foregoing rules shall be effective [date of publication]. The Commission finds that the amendments relate solely to agency organization, procedure or practice and that the public procedures and publication prior to the effective date of the amendments, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, DC, on September 20, 1995, by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 95–23687 Filed 9–22–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 90F–0205]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hydrogenated dipentene resin for use as a component of adhesives and coatings, hydrogenated dipentene-styrene copolymer resin for use as a component of adhesives, and hydrogenated-*beta*-pinene-*alpha*-pinene-dipentene copolymer resin for use as a component of adhesives and coatings intended for use in contact with food. This action responds to a petition filed by Yasuhara Chemical Co., Ltd.

DATES: Effective September 25, 1995; written objections and request for a hearing by October 25, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3084.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 17, 1990 (55 FR 29106), FDA announced that a food additive petition (FAP 7B4012) had been filed by Yasuhara Chemical Co., Ltd., 1080 Takagi-cho Fuchu-city, Hiroshima 726 Japan. The petition proposed that the food additive regulations be amended to provide for the safe use of hydrogenated dipentene resin for use as a component of adhesives and coatings, hydrogenated dipentene-styrene copolymer resin for use as a component of adhesives, and hydrogenated-*beta*-pinene-*alpha*-pinene-dipentene copolymer resin for use as a component of adhesives and coatings intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive uses are safe, and that § 175.105 *Adhesives* (21 CFR 175.105) and § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) of the food additive regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before October 25, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 175.105 is amended in paragraph (c)(5) by alphabetically adding three new entries to the table to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * * * *	
Hydrogenated dipentene resin (CAS Reg. No. 106168–39–2).	
Hydrogenated dipentene-styrene copolymer resin (CAS Reg. No. 106168–36–9).	
Hydrogenated-*beta*-pinene-*alpha*-pinene-dipentene copolymer resin (CAS Reg. No. 106168–37–0).	

3. Section 175.300 is amended in paragraph (b)(3)(xi) by alphabetically adding the following new entries to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xi) * * *

* * * * *	
Hydrogenated dipentene resin (CAS Reg. No. 106168–39–2).	For use only with coatings in contact with acidic and aqueous foods.
Hydrogenated-*beta*-pinene-*alpha*-pinene-dipentene copolymer resin (CAS Reg. No. 106168–37–0).	For use only with coatings in contact with acidic and aqueous foods.

* * * * *

Dated: September 14, 1995.

I. Kaye Wachsmuth,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–23599 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 178

[Docket No. 95F–0149]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester as an antioxidant and/or stabilizer in olefin polymers intended for use in contact with food. This action is in response to a petition filed by General Electric Co.

DATES: Effective September 25, 1995; written objections and requests for a hearing by October 25, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 21, 1995 (60 FR 32329), FDA announced that a food additive petition (FAP 5B4463) had been filed by General Electric Co., 501 Avery St., Parkersburg, WV 26102–1868. The petition proposed that the food additive regulations be amended in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester as an antioxidant and/or stabilizer in olefin polymers intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, and that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before October 25, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.2010 is amended in the table in paragraph (b) by alphabetically adding a new entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
Phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester (CAS Reg. No. 161717–32–4).	For use only at levels not to exceed 0.2 percent by weight of olefin polymers complying with § 177.1520(c) of this chapter, items 1.1, 1.2, or 1.3, and items 2.1, 2.2, or 2.3 (where the density of these polymers is not less than 0.94 gram per cubic centimeter), and items 3.1 or 3.2, provide that the finished polymer contacts food only of types I, II, and VI–B as described in Table 1 of § 176.170(c) of this chapter only under conditions of use B, C, D, E, F, G, and H as described in Table 2 of § 176.170(c) of this chapter.
* * *	* * * *

Dated: September 15, 1995.

Janice F. Oliver,

Deputy Director for Systems and Support, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–23598 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Ketamine Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Fermenta Animal Health Co. The ANADA provides for intramuscular use of ketamine hydrochloride injection in cats for restraint and to produce anesthesia that is suitable for diagnostic or minor surgical procedures that do not require skeletal muscle relaxation and in nonhuman primates for restraint.

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1616.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., P.O. Box 338, 15th and Oak Sts., Elwood, KS 66024, filed ANADA 200–029, which provides for intramuscular use of ketamine hydrochloride injection (equivalent to 100 milligrams/milliliter (mg/mL) ketamine) in cats for restraint and to produce anesthesia that is suitable for diagnostic or minor surgical procedures that do not require skeletal muscle relaxation and in nonhuman primates for restraint. The drug is limited to use by or on the order of a licensed veterinarian.

Fermenta Animal Health's ANADA 200–029 for ketamine hydrochloride injection (equivalent to 100 mg/mL ketamine) is approved as a generic copy of Fort Dodge Laboratories' NADA 045–290 for Vetalar® /Ketaset® (ketamine hydrochloride injection equivalent to 100 mg/mL ketamine). The ANADA is approved as of August 16, 1995, and the regulations are amended in 21 CFR 522.1222a(c) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, § 522.1222a is amended by removing and reserving paragraphs (a) and (d).

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20855, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.1222a is amended by removing and reserving paragraphs (a) and (d), and by revising paragraph (c) to read as follows:

§ 522.1222a Ketamine hydrochloride injection.

(a) [Reserved]

* * * * *

(c) *Sponsors.* See Nos. 000856, 045984, 054273, and 057319 in § 510.600(c) of this chapter.

(d) [Reserved]

* * * * *

Dated: September 8, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–23600 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Melarsomine Dihydrochloride for Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Rhone Merieux, Inc. The NADA provides for intramuscular use of injectable melarsomine dihydrochloride for the treatment of heartworm disease in dogs.

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0137.

SUPPLEMENTARY INFORMATION: Rhone Merieux, Inc., 7101 College Blvd., suite 610, Overland Park, KS 66210, filed NADA 141–042 to provide for intramuscular use of the injectable drug product Immiticide Sterile Powder which consists of a vial of lyophilized powder containing 50 milligrams of melarsomine dihydrochloride to be reconstituted with the provided 2 milliliters of sterile water. The drug is indicated for the treatment of stabilized, class 1, 2, and 3 heartworm disease (asymptomatic to mild, moderate, and severe, respectively) caused by immature (4 month-old, stage L_5) to mature adult infections of *Dirofilaria immitis* in dogs. The drug product is available by prescription. The NADA is approved as of July 21, 1995, and the regulations are amended in part 522 (21 CFR part 522) by adding new § 522.1362 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning July 21, 1995, because no active ingredient

(including any ester or salt of the active ingredient) has been approved in any other application under section 512(b)(1) of the act.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 522.1362 is added to read as follows:

§ 522.1362 Melarsomine dihydrochloride for injection.

(a) *Specifications.* The drug consists of a vial of lyophilized powder containing 50 milligrams of melarsomine dihydrochloride which is reconstituted with the provided 2 milliliters of sterile water for injection.

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* For asymptomatic to moderate (class 1 to class 2) heartworm disease: 2.5 milligrams per kilogram of body weight (1.1 milligram per pound) twice, 24 hours apart. The series can be repeated in 4 months depending on the response to the first treatment and the condition, age, and use of the dog. For severe (class 3) heartworm disease: Single injection of 2.5 milligrams per kilogram followed, approximately 1 month later, by 2.5 milligrams per kilogram administered twice, 24 hours apart.

(2) *Indications.* Treatment of stabilized, class 1, 2, and 3 heartworm disease (asymptomatic to mild, moderate, and severe, respectively) caused by immature (4 month-old, stage L_5) to mature adult infections of *Dirofilaria immitis* in dogs.

(3) *Limitations.* Administer only by deep intramuscular injection in the lumbar muscles (L_3-L_5). Use a 23 gauge 1 inch needle for dogs less than or equal to 10 kilograms (22 pounds) and a 22 gauge 1 1/2 inch needle for dogs greater than 10 kilograms (22 pounds). Use alternate sides with each administration. The drug is contraindicated in dogs with class 4 (very severe) heartworm disease (Caval Sydrome). Not for use in breeding animals and lactating or pregnant bitches. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: September 1, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–23603 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–21–1–6443(a); FRL–5289–6]

Approval and Promulgation of Implementation Plans and Delegation of 112(l) Authority; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Missouri submitted its Rule 10 CSR 10–6.065, entitled ''Operating Permits,'' for Federal approval. The rule would establish a mechanism for creating federally enforceable limitations that would reduce sources' potential to emit such that sources could avoid major source permitting requirements. This action approves this rule as satisfying the criteria set forth in the Federal Register of June 28, 1989, for EPA approval of federally enforceable state operating permit programs (FESOP). In addition, this action addresses Missouri's program covering both criteria pollutants (regulated under section 110 of the Clean Air Act (CAA)) and hazardous air pollutants (HAP) (regulated under section 112).

DATES: This final rule is effective November 24, 1995, unless by October 25, 1995 adverse or critical comments are received.

ADDRESSES: Written comments should be addressed to: Joshua A. Tapp, Air Planning and Development Section, United States Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the State Implementation Plan (SIP) revision request and EPA's analysis are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region VII, Air and Toxics Division, 726 Minnesota Avenue, Kansas City Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp, Air Planning and Development Section, United States Environmental Protection Agency, Region VII, Kansas City, Kansas 66101 ((913) 551–7606).

SUPPLEMENTARY INFORMATION:

I. Review of State Submittal

For many years, Missouri has been issuing permits for major new sources and for major modifications of existing sources. Throughout this time, Missouri has also been issuing permits establishing limitations on the potential emissions from new sources so as to avoid major source permitting requirements. This latter type of permitting has been the subject of various guidance from EPA, most notably the memorandum entitled ''Guidance on Limiting Potential to Emit in New Source Permitting'' dated June 13, 1989.

The operating permit provisions in title V of the Clean Air Act Amendments of 1990 have created interest in mechanisms for limiting sources' potential-to-emit, thereby allowing the sources to avoid being defined as ''major'' with respect to title V operating permit programs. A key mechanism for such limitations is the use of FESOPs. EPA issued guidance on FESOPs in the Federal Register of June 28, 1989 (54 FR 27274). On April 6, 1994, Missouri submitted its newly adopted rule 10 CSR 10–6.065 to provide for FESOPs in Missouri. This rule would supplement the preexisting mechanism for establishing federally enforceable limitations on potential-to-emit (i.e., new source permits). This document evaluates whether Missouri has satisfied the requirements for this type of federally enforceable limitation on potential-to-emit.

As specified in the Federal Register of June 28, 1989, the first provision necessary for an FESOP program is that the state must have approved operating permit regulations. Rule 10 CSR 10–6.065 sections 1, 2, 3, 4(C)-(P), 5, and 7 serve as the foundation for the FESOP rule and the rule defines the ''intermediate'' permitting program. EPA approval of the program will satisfy the first provision for Federal enforceability.

The second provision is that sources have a legal obligation to comply with permit terms, and that EPA may deem as ''not federally enforceable'' those permits which it finds fail to satisfy applicable requirements. Rule 10 CSR 10–6.065 requires sources to obtain permits to operate, authorizes Missouri to establish terms and conditions in these permits ''to ensure compliance with applicable requirements,'' and authorizes the state to suspend or revoke permits if the source violates the terms or conditions. In addition, Missouri's definition of ''federally enforceable'' states that an operating permit is federally enforceable only if it establishes terms and conditions which require adherence to its requirements (10 CSR 10–6.020(2)F(2)). Thus, this rule imposes a legal obligation on sources to comply with permit terms.

The third requirement for FESOPs is that the program require all limits to be at least as stringent as other applicable federally enforceable provisions. Rule 10 CSR 10–6.065(5)(C)1 provides that terms and conditions in permits must ''be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan.'' These rules contain no provisions authorizing terms and conditions any less stringent than the applicable requirements.

The fourth requirement is that the permit provisions must be permanent, quantifiable, and otherwise enforceable as a practical matter. Permit ''permanence'' does not mean never providing for a modification, reissuance, or revocation, for these elements are fundamental in all air permit programs. Permanence instead is considered in terms of provisions having continuing mandates, i.e., that EPA has assurance that the provisions are in effect through the life of the permit. In this case, the limitations on potential-to-emit will generally be sought by sources so as to be redefined from ''major'' to ''minor'' for permitting purposes. Sources that obtain such limitations must keep these limitations in effect, so as never to be a ''major'' source violating the requirement for a ''major'' source permit. The requirement for permit provisions to be quantifiable and practically enforceable must be met on a permit-by-permit basis. Missouri's rules do provide in section 10 CSR 10–6.065(5)(C)2 for the issuance of permanent, quantifiable, and enforceable permits. Thus, Missouri's rules provide for legally enforceable permits that EPA may evaluate for practical enforceability.

The fifth requirement is that the permits must be subject to public notice and review. Rules 10 CSR 10–6.065(5)(C)3 and 10 CSR 10–6.065(7) provide that permits intended to establish federally enforceable limitations on potential-to-emit may not be issued without first providing opportunity for public comment.

Missouri has requested that EPA authorize federally enforceable limitations on potential-to-emit for both pollutants regulated under section 110 of the Act (''criteria pollutants'') and pollutants regulated under section 112 (HAPs). As discussed above, the June 28, 1989, Federal Register document provided five specific criteria for approval of state operating permit programs for the purpose of establishing federally enforceable limits on a source's potential-to-emit. This 1989 document addressed only SIP programs to control criteria pollutants. Federally enforceable limits on criteria pollutants (especially volatile organic compounds (VOC) and particulate matter) may have the incidental effect of limiting certain HAPs listed pursuant to section 112(b). This situation would occur when a pollutant classified as an HAP is also classified as a criteria pollutant (e.g., benzene).[1] As a legal matter, no additional program approval by EPA is required in order for these criteria pollutant limits to be recognized for this purpose.

EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989, Federal Register document, are also appropriate for evaluating and approving the programs under section 112(l). Hence, the five criteria discussed above are applicable to FESOP approvals under section 112(l) as well as under section 110.

In addition to meeting the criteria in the June 28, 1989, document, an FESOP program for HAPs must meet the statutory criteria for approval under section 112(l)(5). This section allows EPA to approve a program only if it: (1) Contains adequate authority to ensure compliance with any section 112 standards or requirements; (2) provides for adequate resources; and (3) provides for an expeditious schedule for ensuring compliance with section 112 requirements.

EPA plans to codify the approval criteria for programs limiting potential-to-emit HAPs in subpart E of part 63, the regulations promulgated to implement section 112(l) of the Act. EPA currently anticipates that these criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989, document, with the addition that the state's authority must extend to HAPs instead of, or in addition to, VOCs and particulate matter. EPA currently anticipates that FESOP programs that are approved pursuant to section 112(l) prior to the subpart E revisions will have had to meet these criteria and, hence, will not be subject to any further approval action.

EPA believes it has authority under section 112(l) to approve programs to limit potential-to-emit HAPs directly under section 112(l) prior to this revision to subpart E. Section 112(l)(5) requires EPA to disapprove programs that are inconsistent with guidance required to be issued under section 112(l)(2). This might be read to suggest that the ''guidance'' referred to in section 112(l)(2) was intended to be a binding rule. Even under this interpretation, EPA does not believe that section 112(l) requires this rulemaking to be comprehensive. That is, it need not address all instances of approval under section 112(l). EPA has already issued regulations under section 112(l) that would satisfy this requirement. Given the severe timing problems posed by impending deadlines under section 112 and title V, EPA believes it is reasonable to read section 112(l) to allow for approval of programs to limit potential-to-emit prior to issuance of a rule specifically addressing this issue.

Missouri's satisfaction of the criteria published in the Federal Register of June 28, 1989, has been discussed above. In addition, Missouri's FESOP program meets the statutory criteria for approval under section 112(l)(5). EPA believes that Missouri has adequate authority to ensure compliance with section 112 requirements since the third criteria of the June 28, 1989, document is met–that is, since the program does not provide for waiving any section 112 requirement. Nonmajor sources would still be required to meet applicable section 112 requirements.

Regarding adequate resources, Missouri has included in its request for approval under section 112(l) a commitment to provide adequate resources to implement and enforce the program, which will be obtained from fees collected under title V. EPA believes that this mechanism will be sufficient to provide for adequate resources to implement this program, and will monitor the state's implementation of the program to ensure that adequate resources continue to be available.

[1] EPA intends to issue guidance addressing the technical aspects of how these criteria pollutant limits may be recognized for purposes of limiting a source's potential-to-emit of HAPs to below section 112 major source levels.

Missouri's FESOP program also meets the requirement for an expeditious schedule for ensuring compliance. A source seeking a voluntary limit on potential-to-emit is probably doing so to avoid a Federal requirement applicable on a particular date. Nothing in this program would allow a source to avoid or delay compliance with the Federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline.

II. Rulemaking Action

EPA finds that the criteria for Missouri to be able to issue FESOPs are met, and is today approving Rule 10 CSR 10–6.065 sections 1, 2, 3, 4(C)-(P), 5, and 7. It is important to note that Missouri's rule 10 CSR 10–6.065 contains the requirements for a part 70 permit program, an intermediate permit program which EPA is approving in this action, and a basic permit program which applies to minor sources. To some extent, the requirements for these programs overlap within the rule. EPA wants to make clear that it is only approving the language and requirements of this rule as they apply to Missouri's intermediate operating permit program.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP revision, the state has elected to adopt the program provided for under section 110 of the CAA. These rules may bind state and local governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to state or local governments in the aggregate or to the private sector.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget has exempted these regulatory actions from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *United States EPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 24, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Hydrocarbons, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: August 9, 1995.

Dennis Grams,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(88) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c)* * *

(88) This revision submitted by the Missouri Department of Natural Resources on March 31, 1994, relates to intermediate sources, and the EPA is not approving the basic operating permit program. This revision establishes a mechanism for creating federally enforceable limitations. Emission limitations and related provisions which are established in Missouri operating permits as federally enforceable conditions shall be enforceable by EPA. EPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures and be based upon the permit, permit approval procedures, or permit requirements which do not conform with the operating permit program requirements or the requirements of EPA's underlying regulations.

(i) Incorporation by reference.

(A) 10 C.S.R. 10–6.065 (sections 1, 2, 3, 4(C)-(P), 5, and 7) Operating Permits, effective May 9, 1994.

(ii) Additional material.

(A) Letter from Missouri to EPA Region VII dated November 7, 1994, regarding how Missouri intends to

satisfy the requirements set forth in the Clean Air Act Amendments at sections 112(l)(5)(A), (B), and (C).

(B) Two letters from Missouri to EPA Region VII dated October 3, 1994, and February 10, 1995, supplementing the November 7, 1994, letter and clarifying that Missouri does have adequate authority to limit potential-to-emit of hazardous air pollutants through the state operating permit program.

* * * * *

3. Section 52.1323 is amended by adding paragraph (i) to read as follows:

§ 52.1323 Approval status.

* * * * *

(i) Emission limitations and related provisions which are established in Missouri's operation permits as federally enforceable conditions shall be enforceable by EPA. EPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures, or permit requirements which do not conform with the operating permit program requirements or the requirements of EPA's underlying regulations.

[FR Doc. 95–23719 Filed 9–22–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 70

[FL–95–01; FRL–5302–5]

Clean Air Act Final Interim Approval of Operating Permit Program; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: EPA is promulgating interim approval of the operating permit program submitted by the Florida Department of Environmental Protection for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: October 25, 1995.

ADDRESSES: Copies of Florida's submittal and the other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, GA 30365. Interested persons wanting to examine these documents, contained in EPA docket number FL–95–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kim Gates, Title V Program Development Team, Air Programs Branch, Air Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE., Atlanta, GA 30365, (404) 347–3555, Ext. 4146.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (the Act) and the implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. If the State's submission is materially changed during the one-year review period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following receipt of the additional materials. EPA received Florida's title V operating permit program submittal on November 16, 1993. The State provided EPA with additional materials in supplemental submittals dated July 8, 1994, November 28, 1994, December 21, 1994, December 22, 1994, and January 11, 1995. Because the supplements materially changed the State's title V program submittal, EPA extended the one-year review period.

EPA reviews state operating permit programs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permit program for that state.

On June 21, 1995, EPA proposed interim approval of Florida's operating permit program. *See* 60 FR 32292. The June 21, 1995 notice also proposed approval of Florida's interim mechanism for implementing section 112(g) and for delegation of section 112 standards and programs that are unchanged from the Federal rules as promulgated. Public comment was solicited on these proposed actions. In this notice, EPA is responding to the comments received and taking final action to promulgate interim approval of Florida's operating permit program.

II. Final Action and Implications

A. Analysis of State Submission and Response to Public Comments

On June 21, 1995, EPA proposed interim approval of Florida's title V operating permit program. *See* 60 FR 32292. The program elements discussed in the proposal notice are unchanged from the proposal notice and continue to substantially meet the requirements of title V and part 70. For detailed information on EPA's analysis of Florida's program submittal, please refer to the Technical Support Document (TSD) contained in the docket at the address noted above.

EPA received three letters during the 30-day public comment period held on the proposed interim approval of Florida's program. One respondent requested a 90-day extension of the public comment period based on the guidance memorandum entitled ''White Paper for Streamlined Development of Part 70 Permit Applications'' issued by EPA on July 10, 1995. The respondent suggested that the White Paper memorandum provides more flexibility for insignificant activities than allowed for in part 70 and in the proposal notice. EPA denied the extension request because the policies set forth in the White Paper memorandum are intended solely as guidance and do not change the current part 70 requirements.

EPA received two comment letters on the proposed interim approval of Florida's program, one from an industry commenter and the other from the State. In response to the comments, several of the conditions for full program approval discussed in the proposal notice are being revised. The changes are discussed below along with the conditions for full approval that remain unchanged.

1. Definition of ''Major Source''

Florida's definition of ''major source'' in the original program submittal (see Rule 62–213.200(19)(a), F.A.C.) implied that emissions of criteria pollutants from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station would not be aggregated with emissions of criteria pollutants from other similar units. Since Florida's definition of ''major source'' conflicted with the part 70 definition, revision of the State's definition was identified in the proposal notice as a condition of full program approval.

In its comment letter, the State indicated that the definition of ''major source'' in Rule 62–213.200(19)(a), F.A.C., has been amended to clarify that

the non-aggregation in the described situations applies only to hazardous air pollutants (HAPs). Florida's amended rule became effective on April 18, 1995, and was submitted to EPA as a formal supplement to the title V operating permit program on August 4, 1995. Therefore, Florida has satisfied this condition for full program approval.

2. Timely Application for Permit Renewal

The State's original program, in Rule 62–4.090, F.A.C., required renewal applications to be submitted 60 days prior to expiration of existing operating permits. This requirement conflicted with the requirement of 40 CFR 70.5(a)(1)(iii) and the State's timeframe did not ensure that a permit would not expire prior to renewal. Revision of Rule 62–4.090, F.A.C., to require submittal of permit renewal applications six months prior to expiration of existing title V permits was identified in the proposal notice as a condition of full program approval.

In its comment letter, the State indicated that rulemaking has been completed to address the requirement in 40 CFR 70.5(a)(1)(iii) for submittal of renewal applications six months prior to the expiration of existing operating permits. The State's amended Rule 62–4.090, F.A.C., became effective on April 18, 1995 and was submitted to EPA as a formal supplement to the title V operating permit program on August 4, 1995. Therefore, Florida has satisfied this condition for full program approval.

3. Insignificant Activities Provisions

(a) Emissions Thresholds for Reporting

Rule 62–213.420(3)(c), F.A.C., contains reporting requirements for the emissions of criteria pollutants at title V sources. The State has indicated that the emissions thresholds in Rule 62–213.420(3)(c)2., F.A.C., which trigger the reporting requirements are based on the presumption that the requirements need to be stringent enough to identify applicable requirements and to suffice for inventorying emissions to evaluate the impact on ambient air concentrations. However, the aggregate threshold of 50 tons per year (tpy) for carbon monoxide appears to be inconsistent with the State's objective. Since the aggregate threshold of 50 tpy must be met prior to the reporting of carbon monoxide in the permit application, the potential exists for carbon monoxide to be inappropriately excluded due to miscalculations.

Therefore, as a condition of full program approval, the State must provide EPA with an acceptable justification for establishing an aggregate emissions threshold of 50 tpy for the triggering of the carbon monoxide reporting requirements. Otherwise, Florida must establish carbon monoxide emissions thresholds that are consistent with the State's emissions thresholds for particulates (PM–10), sulfur dioxide, nitrogen oxides, and volatile organic compounds.

Rule 62–213.420(3)(c)3.b., F.A.C., provides for the reporting of HAPs when a title V source emits or has the potential to emit 8 tpy or more of any single HAP, or 20 tpy or more of any combination of HAPs. Once these thresholds have been met, emissions are identified and reported for each emissions unit with the potential to emit 1 tpy of any individual HAP. All fugitive emissions not associated with any specific emissions units are also reportable when such emissions exceed 1 tpy of any individual HAP.

Since insignificant emissions levels are reviewed relative to threshold levels for determining major source status, as well as levels at which applicable requirements are triggered, EPA requested in the proposal notice that Florida revise the reporting thresholds for HAPs emissions as a condition of full program approval. EPA suggested HAPs emissions thresholds of the lesser of 1000 lbs/year or section 112(g) de minimis levels.

Two commenters responded to EPA's request for revision of the State's HAPs reporting thresholds. The industry commenter stated that the emissions thresholds requested by EPA contradict the White Paper guidance memorandum because the more stringent thresholds would require permit applicants to develop detailed tpy estimates when reporting HAP emissions or when classifying insignificant activities, even for sources identified as major and for emissions units that have no applicable requirements. The industry commenter emphasized that requiring detailed tpy emission estimates for emissions units that have no applicable requirements is contrary to the reporting guidelines presented in the White Paper memorandum. The State, in its comment letter, also expressed concern that making the HAPs reporting thresholds more stringent is contradictory to EPA's goal of streamlining and simplifying the permit application process.

EPA would like to point out that, as a general matter, the flexibility explained in the White Paper memorandum is in addition to, and does not necessarily depend upon, a State's insignificant activities provisions. However, in the case of Florida's program, the State has established detailed reporting criteria which complicate this interaction and give some validity to industry's comments. On further reflection, EPA believes that it may have been overly prescriptive in requiring the State to revise its levels for emissions reporting, which appear to function separately from its insignificant activities provisions, and that an alternative pathway exists in this case for full program approval.

Accordingly, EPA is revising the condition for full approval to require Florida to add language to the applicability provisions in Rule 62–213.400, F.A.C., to ensure that (1) Applications do not omit information needed to determine or impose applicable requirements (as defined in Rule 62–213.200(6), F.A.C.); (2) insignificant activities or emissions units will not be exempted from the determination of whether a source is major; and (3) emissions thresholds for individual activities or units that are exempted will not exceed 5 tpy for regulated air pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAPs or different thresholds that the State demonstrates are insignificant.

(b) Specific Exemptions

Rule 62–210.300(3), F.A.C., exempts specific facilities, emissions units, or pollutant-emitting activities from the title V permitting process. As a condition of full approval, the State must revise Rule 62–210.300(3), F.A.C., to provide that (1) Applications do not omit information needed to determine or impose applicable requirements (as defined in Rule 62–213.200(6), F.A.C.); (2) insignificant activities or emissions units will not be exempted from the determination of whether a source is major; and (3) emissions thresholds for individual activities or units that are exempted will not exceed 5 tpy for regulated air pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAPs or different thresholds that the State demonstrates are insignificant.

In addition, several of the specific exemptions in Rule 62–210.300(3), F.A.C., must either be removed from the rule or revised as a condition of full approval. Specifically, Rule 62–210.300(3)(a), F.A.C., exempts ''(s)team and hot water generating units located within a single facility and having a total heat input, individually or collectively, equaling 50 million BTU/hr or less, and fired exclusively by natural gas except for periods of natural gas curtailment during which fuel oil

containing no more than one percent sulfur is fired * * *'' However, during the periods fuel oil is fired, these sources could potentially emit sulfur dioxide in excess of major source thresholds. Since the potential emissions from these sources would not be ''insignificant,'' this exemption must be removed from Rule 62–210.300(3), F.A.C., as a condition of full approval.

Rule 62–210.300(3)(r), F.A.C., exempts ''[p]erchloroethylene dry cleaning facilities with a solvent consumption of less than 1,475 gallons per year.'' However, at the annual consumption rate of 1,475 gallons of perchloroethylene, these facilities could potentially emit over 8 tpy of perchloroethylene. Since the potential HAPs emissions from these sources is not ''insignificant,'' this exemption must be removed from Rule 62–210.300(3), F.A.C., as a condition of full approval.

Rule 62–210.300(3)(u), F.A.C., exempts ''[e]mergency electrical generators, heating units, and general purpose diesel engines operating no more than 400 hours per year . . .'' These sources could potentially have emissions in excess of major source thresholds, depending on the fuel used and the unit's size. Since the potential emissions from these sources would not be ''insignificant,'' this exemption must be removed from Rule 62–210.300(3), F.A.C., as a condition of full approval.

Rule 62–210.300(3)(x), F.A.C., exempts ''[p]hosphogypsum disposal areas and cooling ponds.'' This exemption potentially includes phosphogypsum stacks, which emit radon and are subject to the radionuclide National Emissions Standards for Hazardous Air Pollutants (NESHAPS) found in 40 CFR part 61, subpart R. Therefore, as a condition of full approval, this exemption must be revised to exclude phosphogypsum stacks.

(d) Case-by-Case Exemptions

Rule 62–4.040(1)(b), F.A.C., allows Florida to determine insignificant activities on a case-by-case basis during the permitting process. As a condition of full approval, the State must revise Rule 62–4.040(1)(b), F.A.C., to provide that (1) Applications do not omit information needed to determine or impose applicable requirements (as defined in Rule 62–213.200(6), F.A.C.); (2) insignificant activities or emissions units will not be exempted from the determination of whether a source is major; and (3) emissions thresholds for individual activities or units that are exempted will not exceed 5 tpy for regulated air pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAPs or different thresholds that the State demonstrates are insignificant.

4. Permit Reopenings Provisions

The regulations in the State's program do not provide for permit reopenings for cause consistent with 40 CFR 70.7(f)(1)(i), (iii), and (iv). As a condition of full program approval, the State must provide in its regulations that: (1) If a permit is reopened and revised because additional applicable requirements become applicable to a major source with a remaining permit term of 3 or more years, such a reopening shall be completed within 18 months after promulgation of the applicable requirement; (2) a permit shall be reopened and revised if EPA or the State determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; and (3) a permit shall be reopened if EPA or the State determine that the permit must be revised or revoked to assure compliance with the applicable requirements.

B. Final Action

1. Title V Operating Permit Program

EPA is promulgating interim approval of the operating permit program submitted by the State of Florida on November 16, 1993, and supplemented on July 8, 1994, November 28, 1994, December 21, 1994, December 22, 1994, and January 11, 1995. The State must make the following changes to receive full program approval:

(a) Provide EPA with an acceptable justification for establishing an aggregate emissions threshold of 50 tpy for the triggering of the carbon monoxide reporting requirements. Otherwise, Florida must establish carbon monoxide emissions thresholds that are consistent with the State's emissions thresholds for particulates (PM–10), sulfur dioxide, nitrogen oxides, and volatile organic compounds.

(b) Revise Rules 62–4.040(1)(b), 62–210.300(3), and 62–213.400, F.A.C., to provide that (1) Applications do not omit information needed to determine or impose applicable requirements (as defined in Rule 62–213.200(6), F.A.C.); (2) insignificant activities or emissions units will not be exempted from the determination of whether a source is major; and (3) emissions thresholds for individual activities or units that are exempted will not exceed 5 tpy for regulated air pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAPs or different thresholds that the State demonstrates are insignificant. In addition, as discussed above, several specific exemptions in Rule 62–210.300(3), F.A.C., must either be removed from the rule or revised.

(c) Make regulatory provisions for permit reopenings for cause consistent with 40 CFR 70.7(f)(1)(i), (iii), and (iv).

The scope of the State of Florida's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within the State, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (November 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the CAA; see also 59 FR 43956, 43962 (August 25, 1994); 58 FR 54364 (October 21, 1993).

This interim approval, which may not be renewed, extends until October 25, 1997. During this interim approval period, the State of Florida is protected from sanctions, and EPA is not obligated to promulgate, administer, and enforce a Federal operating permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon the effective date of this final interim approval, as does the three-year time period for processing the initial permit applications.

If the State of Florida fails to submit a complete corrective program for full approval by April 25, 1997, EPA will start an 18-month clock for mandatory sanctions. If Florida then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that Florida has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of Florida, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that Florida has come into compliance. In any case, if, six months after application of the first sanction, Florida still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Florida's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the Florida, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that the State has come into compliance. In all cases, if, six months after EPA applies the first sanction, Florida has not submitted a revised program that EPA determines to have corrected the deficiencies that prompted disapproval, a second sanction will be required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if a state has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a state program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer, and enforce a Federal operating permit program for that state upon interim approval expiration.

2. Preconstruction Review Program Implementing Section 112(g)

EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of section 112(g) applicability. The notice postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretative notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Florida must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations.

EPA is aware that Florida lacks a program designed specifically to implement section 112(g). However, Florida does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period because it would allow the State to select control measures that would meet the maximum achievable control technology (MACT), as defined in section 112, and incorporate these measures into a Federally enforceable preconstruction permit.

For this reason, EPA is approving the use of Florida's preconstruction review program found in Rule 62–212, F.A.C., under the authority of title V and part 70, solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between section 112(g) promulgation and adoption of a State rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of state air programs to implement section 112(g), title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purpose of any other provision under the Act (e.g., section 110). This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the section 112(g) rule to provide adequate time for the State to adopt regulations consistent with the Federal requirements.

3. Program for Delegation of Section 112 Standards as Promulgated

The requirements for part 70 program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a state program for delegation of section 112 standards promulgated by EPA as they apply to title V sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also approving, under section 112(l)(5) and 40 CFR 63.91, Florida's program for receiving delegation of section 112 standards and programs that are unchanged from the Federal rules as promulgated. In addition, EPA is delegating all existing standards and programs under 40 CFR parts 61 and 63. This program for delegations applies to part 70 sources and non-part 70 sources.[1]

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval, including the three comment letters received and reviewed by EPA on the proposal notice, are contained in docket number FL–95–01 maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives

[1] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of ''major'' for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed interim approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: September 15, 1995.

John H. Hankinson, Jr.,

Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for the State of Florida in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Florida

(a) Florida Department of Environmental Protection: submitted on November 16, 1993, and supplemented on July 8, 1994, November 28, 1994, December 21, 1994, December 22, 1994, and January 11, 1995; interim approval effective on October 25, 1995; interim approval expires October 25, 1997.

(b) [Reserved]

* * * * *

[FR Doc. 95–23709 Filed 9–22–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5301–7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the E.I. du Pont de Nemours and Company (DuPont) County Road X23 Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region VII announces the deletion of the E.I. du Pont de Nemours and Company County Road X23 Superfund Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. This action is being taken as Superfund Remedial Activities have been completed at the Site and EPA and the State of Iowa have determined that no further cleanup by the Responsible Party is appropriate under CERCLA. Moreover, EPA and the State have determined that CERCLA activities conducted at the Site to date have been protective of public health, welfare and the environment.

EFFECTIVE DATE: September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Paul W. Roemerman, Remedial Project Manager, Superfund Branch, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Ave., Kansas City, KS 66101, (913) 551–7694.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the E.I. du Pont de Nemours and Company County Road X23 Superfund Site, Fort Madison, Lee County, Iowa.

A notice of intent to delete for this site was published August 30, 1994 (59 FR 44689). The closing date for comments was thirty (30) days after the notice was published. EPA did not receive any comments on the proposed deletion.

Based upon a review of monitoring data from the site, EPA in consultation with the State of Iowa has determined that the site does not pose a significant risk to human health or the environment. The site shall be monitored in accordance with the Operation and Monitoring Plan approved by EPA.

EPA, in conjunction with the State of Iowa, will conduct future reviews of monitoring data at a minimum of every five years, or until such time when no hazardous substances, pollutants or contaminants remain at the site above levels that allow for unrestricted use and unlimited exposure.

The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Response Fund (Fund). Pursuant to § 105(e) of CERCLA, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions if conditions at the site warrant such action. Deletion from the NPL does not affect responsible party liability or impede EPA efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous substances, Hazardous wastes, Superfund.

Dated: August 9, 1995.

Dennis Grams,

Regional Administrator.

For the reasons set out in the preamble 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site ''E.I. du Pont de Nemours and Company County Road X23 Superfund Site, Lee County, Iowa''.

[FR Doc. 95–23708 Filed 9–22–95; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–6

[FTR Amendment 44]

RIN 3090–AF73

Federal Travel Regulation; Increase in Maximum Reimbursement Limitations for Real Estate Sale and Purchase Expenses

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to increase the maximum dollar limitations on reimbursement for allowable real estate sale and purchase expenses incident to a change of official station. Section 5724a(a)(4)(B)(iii) of title 5, United States Code, requires that the dollar limitations be updated effective October 1 of each year based on the percent change, if any, in the Consumer Price Index for All Urban Consumers, United States City Average, Housing Component, for December of the preceding year over that published for December of the second preceding year. This final rule will have a favorable impact on Federal employees authorized to relocate in the interest of the Government since it increases relocation allowance maximums.

EFFECTIVE DATE: This final rule is effective October 1, 1995, and applies to employees whose effective date of transfer is on or after October 1, 1995. For purposes of this regulation, the effective date of transfer is the date on which the employee reports for duty at the new official station.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: This final rule makes the annual adjustment to the maximum reimbursement limitations for the sale and purchase of an employee's residence when the employee transfers in the interest of the Government. The total amount of expenses that may be reimbursed in connection with the sale of a residence shall not exceed 10 percent of the actual sale price or $22,398, whichever is the lesser amount. The total amount of expenses that may be reimbursed in connection with the purchase of a residence shall not exceed 5 percent of the purchase price or $11,198, whichever is the lesser amount. The General Services Administration has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **FEDERAL REGISTER** for notice or comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 302–6

Government employees, Relocation allowances and entitlements, Transfers

For the reasons set out in the preamble, 41 CFR part 302–6 is amended as follows:

PART 302–6—ALLOWANCE FOR EXPENSES INCURRED IN CONNECTION WITH RESIDENCE TRANSACTIONS

1. The authority citation for part 302–6 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–6.2 [Amended]

2. Section 302–6.2 is amended by removing the amount ''$21,916'' in paragraph (g)(1) and adding in its place the amount ''$22,398''; and by removing the amount ''$10,957'' in paragraph (g)(2) and adding in its place the amount ''$11,198''.

Dated: August 24, 1995.

Thurman M. Davis, Sr.

Acting Administrator of General Services.

[FR Doc. 95–23698 Filed 9–22–95; 8:45 am]

BILLING CODE 6820–24–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Ash Grove, MO

CFR Correction

In Title 47 of the Code of Federal Regulations, part 73, revised as of October 1, 1994, on page 94, in § 73.202, in the table for FM allocations for the state of Missouri, the entry for Ash Grove was inadvertently ommited. The entry should read as follows:

§ 73.202

* * * * *

(b) *Table of FM allotments.*

* * * * *

MISSOURI

	Channel No.
* * *	
Ash Grove	281A
* * *	

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 091995A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pollock in the Bering Sea Subarea by the Offshore Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal allowance of the pollock total allowable catch (TAC) apportioned to vessels harvesting pollock for processing by the offshore component in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), September 20, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the second seasonal allowance of pollock for vessels catching pollock for processing by the offshore component in the BS was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8479, February 14, 1995), and augmented from the non-specific operational reserve (60 FR 32278, June 21, 1995) as 440,782 metric tons (mt). The amount actually available is 379,844 mt, subsequent to harvests from the first seasonal allowance.

The Director, Alaska Region, NMFS (Regional Director), has determined in accordance with § 675.20(a)(8), that the second allowance of pollock TAC for vessels catching pollock for processing by the offshore component in the BS

soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 357,844 mt with consideration that 22,000 mt will be taken as incidental catch in directed fishing for other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the BS.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 19, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–23684 Filed 9–20–95; 11:09 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 185
Monday, September 25, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Regulation K; Docket No. R–0896]

International Operations of United States Banking Operations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment proposed amendments to Subpart A of Regulation K (International Operations of U.S. Banking Operations). The amendments provide additional general consent authority for *de novo* investments in foreign companies by U.S. banking organizations that are strongly capitalized and well managed. This expanded general consent authority is designed to permit U.S. banking organizations meeting these requirements to make certain investments without the need for prior approval or review. In order to strike a reasonable balance, however, between reduced regulatory burden and continued Board oversight, the amendments would impose aggregate limits on the total amount of general consent investments that may be made in the course of a year. In addition, certain investments or activities would not be eligible for the expanded authority. The proposed rule would require an investor making use of the expanded authority to provide the Board with a post-investment notice. In addition, for those investments requiring prior notice to the Board, the proposed rule would streamline the processing of such notices.

DATES: Comments must be submitted by October 30, 1995.

ADDRESSES: Comments should refer to Docket No. R–0896, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street NW., (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Kathleen M. O'Day, Associate General Counsel (202/452–3786), Sandra L. Richardson, Managing Senior Counsel (202/452–6406), or Andres L. Navarrete, Attorney (202/452–2300), Legal Division; William A. Ryback, Associate Director (202/452–2722), Michael G. Martinson, Assistant Director (202/452–2798), or Betsy Cross, Manager (202/452–2574), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the users of Telecommunication Device for the Deaf (TDD) *only*, please contact Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Subpart A of the Board's Regulation K sets out the rules governing the foreign activities of U.S. banking organizations, including procedures for making investments in foreign banking and non-banking organizations. Under § 211.5(c), all such investments, whether made directly or indirectly, are required to be made in accordance with the general consent, prior notice, or specific consent procedures contained in that paragraph. 12 CFR 211.5(c). No prior notice or application is required for any investment that falls within the general consent authority. Such authority at present is limited to investments where the total amount invested in any one organization, in one transaction or a series of transactions, does not exceed the lesser of $25 million or 5 percent of the investor's Tier 1 capital where the investor is a member bank, bank holding company, or Edge corporation engaged in banking.[1]

The Board has reviewed the general consent authority in light of the amount and nature of the investments that required prior review because they exceeded the general consent dollar limits. The Board has concluded that the current general consent authority may be safely expanded for U.S. banking organizations that are strongly capitalized and well managed. This expanded general consent authority is intended to reduce the burden associated with obtaining approval for such investments for U.S. banking organizations meeting these requirements.

The constraining limit in the general consent authority that triggers the requirement of prior notice often has been the $25 million cap. The Board seeks comment on a rule that, in order to reduce burden on applicants, would add additional general consent authority for U.S. banking organizations that are strongly capitalized and well managed by removing the absolute dollar limit and linking the general consent limits solely to percentages of capital.

Proposed Rule

The proposed rule would streamline the Board's notice requirement under Subpart A of Regulation K by increasing the limit on investments that may be made abroad without providing prior notice to the Board. This liberalization would be available in relation to certain *de novo* investments and for additional investments in existing subsidiaries and joint ventures by investors that have demonstrated strong capital and management. This expanded general consent authority also is intended to reduce the burden associated with obtaining approval for such investments for U.S. banking organizations meeting the strongly-capitalized and well-managed standards. The Board seeks comment on each of the requirements or limitations discussed below.

Strongly-Capitalized and Well-Managed Requirement

The expanded general consent authority would be available for investments by member banks, bank holding companies, Edge corporations that are not engaged in banking, and agreement corporations. The expanded authority would only be available where the investor, its parent member bank, if any, and the bank holding company are strongly capitalized and well managed, as those terms are defined by the Board. ''Strongly capitalized,'' in relation to

[1] In the case of an Edge corporation not engaged in banking, the relevant general consent limit is the lesser of $25 million or 25 percent of its Tier 1 capital.

member banks, is defined with reference to the definition of ''well capitalized'' set out in the prompt corrective action standards, which requires, at a minimum, a 6 percent Tier 1 and 10 percent total risk-based capital ratio and a leverage ratio of 5 percent.[2] 12 CFR 208.33(b)(1). For purposes of Regulation K, Edge or agreement corporations and bank holding companies would be required to have a total risk-based capital ratio of 10 percent or more in order to be considered strongly capitalized for purposes of the expanded authority. A definition of ''well managed'' is also included in the proposed rule, which provides that, in order to be considered well managed, the Edge or agreement corporation, its parent member bank, if any, and the bank holding company must each have received a composite rating of at least 1 or 2, with no component below 3, at its most recent examination or review.

Expanded Authority for General Consent Investments

The new proposed limits for the expanded general consent authority would be tied to the capital of the investor. With regard to limits on investments in any one company by Edge corporations not engaged in banking or agreement corporations that meet the requirements discussed above, the Board proposes that the limits should be changed to the lesser of 20 percent of the Edge or agreement corporation's Tier 1 capital or 2 percent of the Tier 1 capital of the member bank.[3] So long as the 2 percent limit is not exceeded by its parent, Edge corporations not engaged in banking will be permitted to invest up to 20 percent of their capital. This higher limit is authorized because such Edge corporations do not take deposits in the United States or own U.S. depository institutions. Any financial effect on the parent bank would be constrained by the 2 percent limit.

A limit of 2 percent of the Tier 1 capital of a member bank appears to strike a reasonable balance between two objectives: permitting an organization considered to be strongly capitalized and well managed to make investments that management considers to be appropriate with a minimum of regulatory interference, and requiring prior review for investments involving a high percentage of capital. The latter investments may cause supervisory concern because an initial capital investment can be leveraged many times.

The proposed rule also sets an overall aggregate limit on all investments made during the previous 12-month period under the existing and the expanded general consent authority. All such investments made by an Edge corporation not engaged in banking or an agreement corporation, when aggregated with the proposed investment, would not be permitted to exceed the lesser of 50 percent of the Edge or agreement corporation's total capital or 5 percent of the parent member bank's total capital. An overall aggregate limit of 5 percent of their total capital would apply to investments by member banks and bank holding companies. These limits again were selected in an effort to strike a reasonable balance between giving such entities credit for their strongly-capitalized and well-managed status, in the form of reduced regulatory burden, but maintaining the requirement for, at a minimum, prior notice to the Board once the overall level of foreign investments may give rise to supervisory concern.

The proposal provides, however, that in determining compliance with these aggregate limits, an investment in a subsidiary shall be counted only once notwithstanding that such subsidiary may, within the next 12 months, downstream all or part of such investment to another subsidiary. This change is designed to avoid double counting and simply recognizes that often, especially for tax purposes, investments are downstreamed from one subsidiary to another in a banking group—an event that, so long as the investors are strongly capitalized and well managed, generally would not raise supervisory concerns. It would, however, significantly reduce the burden upon investors that meet the requirements for the expanded authority by removing the need for prior notices to the Board for transactions that really constitute the movement of funds within the banking group.

Additional Investments

The proposed rule also confirms that strongly-capitalized and well-managed investors making investments under the expanded general consent authority may also make additional investments in subsidiaries and joint ventures under the standards set out in the existing general consent authority. 12 CFR 211.5(c)(1)(ii–iv). Thus, once the expanded general consent authority for initial investments has been exhausted in respect of one organization, additional investments may be made consistent with the provisions of § 211.5(c)(1).

Eligible Investments

The proposed rule establishes the nature of investments eligible for the expanded general consent authority, as well as the types of activities that may be conducted by the organization in which the investment is to be made. Subject to certain exceptions, the rule would permit investments in any activities either permissible for subsidiaries under Regulation K or permissible for national banks to engage in directly. Ineligible investments are limited to an investor's initial entry into a foreign country, the establishment or acquisition of an initial subsidiary bank in a foreign country, investments in general partnerships or unlimited liability companies, and an acquisition of shares or assets of a corporation that is not an affiliate of the investor. Retention of specific approval authority over establishment of new foreign bank offices and outward expansion of banking institutions is consistent with the minimum standards for consolidated supervision of the Basle Committee on Banking Supervision.

Exclusion of the acquisitions is intended to limit the expanded authority to investments in *de novo* subsidiaries (including subsequent investments in such subsidiaries) by excluding the acquisition of going concerns (unless already held by an affiliate). The risks associated with such acquisitions are considered to be greater than the amount of capital invested (extending also, for example, to the value of the company's assets).

The Board seeks comment on the exclusion of these investments from the expanded general consent authority. In particular, the Board seeks comment on whether additional investments in companies acquired as going concerns also should be eligible for the expanded authority.

Post-Investment Notice Requirement

The proposed rule would require an investor making use of the expanded authority to provide the Board with a post-investment notice within 10 days of making the investment. The notice would require provision of certain minimal information for purposes of supervising the banking organizations making use of the expanded authority, including a description of the investment, the terms and sources of

[2] The member bank also may not be subject to any written agreement, order, capital directive, or prompt corrective action directive issued by the Board to meet and maintain a specific capital level for any capital measure. 12 CFR 208.33(b)(1).

[3] The proposed 20 percent limit of the Edge's Tier 1 capital derives from the constraint imposed by section 25A of the Federal Reserve Act, which prohibits any investment in excess of 10 percent of the subscribing bank's capital in Edge and agreement corporations.

funding, the entities involved, and, where the investment is to redress a loss, a description of the reasons for the loss and the steps taken to address the problem. The Board solicits comment regarding this requirement generally, the information to be submitted in any such notice, and ways in which such a post-investment notice may be coordinated with existing reporting requirements.

Simultaneous Review

The proposal would amend the Board's current procedures for processing prior notices and applications under Subpart A of Regulation K. Specifically, under § 211.5(c)(2), the Board has 45 days to object to any investment that is the subject of a prior notice and the 45-day period commences on the day that the prior notice is *accepted* by the relevant Reserve Bank. The proposed rule would amend the regulation to provide that the 45-day period starts on the date of the Reserve Bank's *receipt* of the prior notice. This change is expected to accelerate the processing of such notices, reduce the number of information requests that applicants must answer, and more generally reduce the regulatory burden associated with sequential review. Under the proposed rule, however, the Board would continue to have the ability to modify or suspend the general consent and prior notice procedures. The Board also proposes to extend this treatment to the processing of applications under Regulation K.

Request for Comment

The Board requests comments on all aspects of the rule discussed above. In addition, comments are requested regarding other ways in which the provisions of Subpart A of Regulation K might be streamlined or rendered less burdensome, either in terms of U.S. banking organizations that meet strongly-capitalized and well-managed standards, or more generally.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an initial regulatory flexibility analysis with any notice of proposed rulemaking. A description of the reasons why the action by the agency is being considered and a statement of the objectives of, and the legal basis for, the proposed rule are contained in the supplementary information above. The overall effect of the proposed rule would be to reduce regulatory burden. The rule should not have a significant economic impact on a substantial number of small business entities consistent with the spirit and purpose of the Regulatory Flexibility Act.

Paperwork Reduction Act and Regulatory Burden

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325, 108 Stat. 2160) also requires that the federal banking agencies must consider the administrative burdens and benefits of any new regulation that imposes additional requirements on insured depository institutions. The Board does not consider that the proposed rule would impose additional requirements on insured depository institutions, nor would it increase the regulatory paperwork burden of banking organizations pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). To the contrary, the proposed rule would reduce regulatory burden for U.S. banking organizations that are strongly capitalized and well managed. The current annual burden for these application and notification requirements is estimated to be 440 hours. The proposed amendments could reduce the burden estimate by as much as half.

Although the proposal would require U.S. banking organizations making investments pursuant to the expanded general consent authority to file an abbreviated post-investment notice with the Board, this notice would take the place of the requirements relating to prior notice or application to the Board for prior approval that would be required under existing Regulation K procedures *before* any such investment could be made.

List of Subjects in 12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Board of Governors proposes to amend 12 CFR Part 211 as set forth below:

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for part 211 is revised to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*

2. Section 211.2 is amended by redesignating paragraphs (u) and (v) as paragraphs (v) through (w), respectively, and by adding new paragraphs (u) and (x) to read as follows:

§ 211.2 Definitions.

* * * * *

(u) *Strongly capitalized* means:

(1) In relation to a parent member bank, that the standards set out in 12 CFR 208.33(b)(1) are satisfied; and

(2) In relation to an Edge or Agreement corporation or a bank holding company, that it has a total risk-based capital ratio of 10.0 percent or greater.

* * * * *

(x) *Well managed* means that the Edge or Agreement corporation, its parent member bank, if any, and the bank holding company have each received a composite rating of at least 1 or 2, with no component below 3, at its most recent examination or review.

3. Section 211.5 is amended by:

a. Redesignating paragraphs (c) (2) and (3) as paragraphs (c) (3) and (4) respectively;

b. By adding a new paragraph (c)(2); and

c. In newly designated paragraph(c)(3), by removing the word ''accepted'' in the third sentence and adding in its place the word ''received''.

The addition reads as follows:

§ 211.5 Investments and activities abroad.

* * * * *

(c) * * *

* * * * *

(2)(i) *Additional general consent for de novo investments.* Notwithstanding the amount limitations of paragraph (c)(1) of this section, but subject to the other limitations of this section, the Board grants additional general consent authority for investments in an organization by an investor that is strongly capitalized and well managed if:

(A) The activities of the organization are limited to activities in which a national bank may engage directly or in which a subsidiary may engage under § 211.5(d);

(B) In the case of an investor that is an Edge corporation that is not engaged in banking or agreement corporation, the total amount invested in such organization (in one transaction or a series of transactions) does not exceed the lesser of the investor's 20 percent of the Tier 1 capital or 2 percent of the Tier 1 capital of the parent member bank;

(C) In the case of a bank holding company or member bank investor, the total amount invested in such organization (in one transaction or a series of transactions) directly or indirectly does not exceed 2 percent of the investor's Tier 1 capital;

(D) All investments made by an Edge corporation not engaged in banking or

an agreement corporation during the previous 12-month period under paragraph (c)(1) and (c)(2) of this section, when aggregated with the proposed investment, would not exceed the lesser of 50 percent of the total capital of the Edge or agreement corporation, or 5 percent of the total capital of the parent member bank;

(E) All investments made by a member bank or a bank holding company during the previous 12-month period under paragraph (c)(1) and (c)(2) of this section without providing prior notice to or obtaining the consent of the Board, when aggregated with the proposed investment, would not exceed 5 percent of its total capital; and

(F) Both before and immediately after the proposed investment the investor, its parent member bank, if any, and the bank holding company are strongly capitalized and well managed.

(ii) *Determining aggregate investment limits.* For purposes of determining compliance with the aggregate investment limits set out in paragraph (c)(2)(i) (D) and (E) of this section, an investment by an investor in a subsidiary shall be counted only once notwithstanding that such subsidiary may, within 12 months of the date of making the investment, downstream all or any part of such investment to another subsidiary.

(iii) *Additional investments.* An investor that makes investments under paragraph (c)(2)(i) of this section may also make additional investments in an organization under the standards set forth in paragraphs (c)(1)(ii), (c)(1)(iii) and (c)(1)(iv) of this section.

(iv) *Ineligible investments.* The following investments are not eligible for the general consent under paragraph (c)(2)(i) of this section:

(A) The initial entry into a foreign country;

(B) The establishment or acquisition of an initial subsidiary bank in a foreign country;

(C) Investments in general partnerships or unlimited liability companies; and

(D) An acquisition of shares or assets of an organization that is not an affiliate of the investor.

(v) *Post-investment notice.* Within 10 business days of making the investment, the investor shall provide the Board with a notice setting out all material information relating to the investment, including:

(A) A description of the investment and the activities to be conducted;

(B) The identity of all entities involved in the investment, including any downstream investment, and, if the investment is in a joint venture, the respective responsibilities of the parties to the joint venture;

(C) A description of the terms and sources of funds for the transaction and projections for the organization in which the investment is made for the first year following the investment; and

(D) In the case of additional investments, an explanation of the reasons for the investment and, where the investment is made in an organization that incurred a loss in the last year, a description of the reasons for the loss and the steps taken to address the problem.

* * * * *

By order of the Board of Governors of the Federal Reserve System, September 20, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–23670 Filed 9–22–95; 8:45 a.m.]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–95–4]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received November 24, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3132. Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC on September 20, 1995.

Michael Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Rulemaking

Docket No.: 25985
Petitioner: Mr. Stuart R. Miller
Regulations Affected: 14 CFR 91.107, 121.311, and 135.128
Description of Rulechange Sought: To require all children who have not reached their third birthday to be seated in their own seat within an FAA-approved safety device/safety restraint system for take off and landing and at the command of the pilot. In addition, the petitioner requests that the device shall be located/installed for use so as not to block or interfere with the egress of other passengers.
Petitioner's Reason for the Request: The petitioner feels that mandatory change would increase the accountability factor from corporate executives and from public officials, as well as focus on the safety for children passengers.

Docket No.: 28131
Petitioner: Aviation Consumer Action Project and Private Citizen
Sections of the FAR Affected: 14 CFR 121.219 and 135.169
Description of Rulechange Sought: To revise the current aircraft cabin ventilation requirements to require that each passenger or crew compartment be [suitably] ventilated by providing fresh, unrecirculated air at a rate no less than 20 cubic feet per minute per occupant.
Petitioner's Reason for the Request: The petitioner feels the cabin ventilation rates be revised because of the

increasing number of passenger complaints about a perceived reduction in air quality and recent surveys of cabin air quality, which indicate the presence of noteworthy concentrations of pollutants in the aircraft cabin.

Docket No.: 28202
Petitioner: Bonanza/Baron Pilot Proficiency Programs, Inc.
Sections of the FAR Affected: 14 CFR 61.195 and 91.109
Description of Rulechange Sought: To clarify the aircraft equipment required for aircraft used in flight instruction and expand the use of throwover control wheels in multi-engine aircraft when those aircraft are used for flight instruction.
Petitioner's Reason for the Request: The petitioner feels that current regulations unnecessarily encumber the use of aircraft for pilot training.

Disposition of Petitions

Docket No.: 25412
Petitioner: General Aviation Manufacturers Assn.
Sections of the FAR Affected: 14 CFR 25.853(c) and 135.170(b)(2)
Description of Rulechange Sought: To exclude small (under 75,000 lbs. MGTOW, less than 20 passenger seats) transport category airplanes from the fire blocking seat cushion requirements.
Petitioner's Reason for the Request: The petitioner feels that the safety benefits of fire blocking anticipated by § 25.853(c) will not be realized or needed in this class of small, part 25 transport category airplanes.
Denial; August 8, 1995

Docket No.: 26647
Petitioner: Benz Airborne Systems
Sections of the FAR Affected: 14 CFR 27.1305(t) and 27.1337 (e)(3) and (e)(4)
Description of Rulechange Sought: To require a cockpit chip detector warning/caution device and circuit checking feature (proposed feature) on part 27 rotorcraft.
Petitioner's Reason for the Request: The petitioner feels that there are currently no requirements that part 27 rotorcraft have the proposed features stated in § 27.1337(e).
Denial; August 2, 1995

Docket No.: 27371
Petitioner: Homeowners of Encino
Sections of the FAR Affected: 14 CFR 91.119(d)
Description of Rulechange Sought: To limit helicopter operations below the minimum altitudes prescribed in § 91.119 (b) and (c) to helicopters operated by any municipal, county, state, and federal authority for emergency services, rescue operations, or police or fire departments.
Petitioner's Reason for the Request: The petitioner feels that voluntary practices of helicopter pilots to adhere to the avoidance of noise-sensitive areas have failed to produce satisfactory results.
Denial; June 8, 1995

[FR Doc. 95–23726 Filed 9–22–95; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 94–ASO–20]

Proposed Alteration and Establishment of VOR Federal Airways; FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: On May 3, 1995 (60 FR 21776), the FAA proposed to establish a new Federal Airway V–601 and to modify Federal Airways V–7, V–35, and V–157 in the Miami, FL, area. This rulemaking action is necessary because of the decommissioning of the Miami, FL, Very High Frequency Omnidirectional Range and Tactical Air Navigation (VORTAC) and the commissioning of the Dolphin, FL, VORTAC. The Notice of Proposed Rulemaking (NPRM), as published, contained several inadvertent errors in defining intersections in the descriptions of the Federal airways. This Supplemental Notice of Proposed Rulemaking (SNPRM) corrects those errors and proposes to modify the description of V–601, as proposed in the NPRM, to provide a preferred route for pilots transitioning over water. Finally, this SNPRM removes nonessential language concerning a Military Operations Area (MOA) and two restricted areas from the descriptions of the Federal airways and adds an exclusion for a restricted area to an airspace description.

DATES: Comments must be received on or before October 3, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 94–ASO–20, Federal Aviation Administration, PO Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 94–ASO–20.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of SNPRM's

Any person may obtain a copy of this SNPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this

SNPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a new Federal Airway V–601, and to modify V–7, V–35, V–157 in the Miami, FL, area. The FAA published the NPRM on May 3, 1995 (60 FR 21776). Comments received in response to the NPRM and this SNPRM would be addressed in the final disposition of the rule. Changes and explanations to the airspace designations are as follows: (1) V–7: The airspace designation would be corrected to accurately define an intersection. The ''Dolphin 293°T(297°M)'' is corrected to the ''Dolphin 299°T(303°M).'' (2) V–35: An inadvertent error occurred in defining two intersections. The intersection of ''Dolphin 267°T(271°M) and Cypress, FL, 110°T(110°M) radials'' would be corrected to ''Dolphin 266°T(270°M); INT Cypress 110°T(110°M) and Lee County, FL, 139°T(141°) radials'' would be corrected to ''INT Cypress 110°T(110°M) and Lee County, FL, 138°T(140°M) radials.'' The language excluding Restricted Area R–2916 from the airspace designation is obsolete and would be deleted. (3) V–157: The language excluding Restricted Area R–2901A is no longer applicable and would be deleted. The exclusionary language, ''The airspace within R–4005 and R–4006 is excluded'' inadvertenly left out R–4007A and would be corrected to include R–4007A. The language concerning the Lake Placid MOA would be deleted because it is not necessary and would not affect operations along V–157. (4) V–601: The airspace designation would be modified to provide the airspace users with a preferred routing for transitioning over water to the Key West, FL, area. In addition, an inadvertent error in the radials defining the intersection would be corrected. V–601 would be changed from ''From Pahokee, FL; INT Pahokee 212°T(212°M) and Marathon, FL; 354°T(357°M) radials; Marathon'' to ''From Pahokee, FL; INT Pahokee 211°T(211°M) and Key West, FL, 020°T(019°M) radials; Key West.'' This proposed modification would provide a more desirable transition route in support of aircraft not equipped for long distances over water. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9C dated August 17, 1995, effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Domestic VOR Federal airways listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Rules and Procedures Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil aircraft operations on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp.; p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–7 (Revised)

From Dolphin, FL; INT Dolphin 299°T(303°M) and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Tallahassee, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; Vulcan, AL; Muscle Shoals, AL; Graham, TN; Central City, KY; Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; INT Chicago Heights 358° and Falls, WI, 170° radials; Falls; Green Bay, WI; Menominee, MI; Marquette, MI. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V–35 (Revised)

From Dolphin, FL; INT Dolphin 266°T(270°M) and Cypress, FL,

110°T(110°M) radials; INT Cypress 110° and Lee County, FL, 138°T(140°M) radials; Lee County; INT Lee County 326° and St. Petersburg, FL, 152° radials; St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City, FL; Greenville, FL; Pecan, GA; Macon, GA; INT Macon 005° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Glade Spring, VA; Charleston, WV; INT Charleston 051° and Elkins, WV, 264° radials; Clarksburg, WV; Morgantown, WV; Indian Head, PA; Johnstown, PA; Tyrone, PA; Philipsburg, PA; Stonyfork, PA; Elmira, NY; Syracuse, NY. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V–157 (Revised)

From Key West, FL; INT Key West 038°T(037°M) and Dolphin, FL, 244°T(248°M) radials; Dolphin; INT Dolphin 331°T(335°M) and La Belle, FL, 113°T radials; La Belle; Lakeland, FL; Ocala, FL; Gainesville, FL; Taylor, FL; Waycross, GA; Alma, GA; Allendale, SC; Vance, SC; Florence, SC; Fayetteville, NC; Kinston, NC; Tar River, NC; Lawrenceville, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Woodstown, NJ; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston, NY; to Albany, NY. The airspace within R–6602A is excluded. The airspace within R–4005, R–4006, and R–4007A are excluded.

* * * * *

V–601 (New)

From Pahokee, FL; INT Pahokee 211°T(211°M) and Key West, FL, 020°T(019°M) radials; Key West.

* * * * *

Issued in Washington, DC, on September 18, 1995.

Nancy Kalinowski,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–23647 Filed 9–22–95; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[IA–36–91]

RIN 1545–AT22

Time for Performance of Acts Where Last Day Falls on Saturday, Sunday, or Legal Holiday

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the time for performance of acts by taxpayers and by the Commissioner, a district director, or the director of a regional service center, where the last day for performance falls on a Saturday, Sunday, or legal holiday. In particular, the proposed regulations would remove the list of legal holidays and other outdated material.

DATES: Written comments and requests for a public hearing must be received by December 26, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA–36–91), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (IA–36–91), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Judith A. Lintz (202) 622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) that would revise the paragraphs in the regulations that specify the legal holidays and provide other related information.

Explanation of Provisions

This document proposes to amend § 301.7503–1, which explains and supplements section 7503 of the Internal Revenue Code pertaining to the performance of any act prescribed under authority of the internal revenue laws when the last day for performance of the act falls on Saturday, Sunday, or a legal holiday. First, § 301.7503–1(a) would be amended to reflect a change to the name of the Court of Claims, which, as of October 29, 1992, became the Court of Federal Claims.

Second, § 301.7503–1(b), which provides a list of the legal holidays and other related information, would be revised. The current list of holidays is outdated. However, in light of the aim toward tax simplification, the list of holidays in paragraph (b) would be replaced by citations to the law from which the holidays must be discerned. In this way, future changes in the law with respect to the holidays will not require amendments to the regulations.

Third, § 301.7503–1(c), which provides that section 7503 is applicable in any case where the last day for performance of an act occurs after August 16, 1954, would be removed because this information is obsolete.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Judith A. Lintz, Office of Assistant Chief Counsel (Income Tax & Accounting), Internal Revenue Service. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.7503–1 is amended as follows:

1. In the fourth sentence of paragraph (a), the language ''Thursday, November 22, 1956 (Thanksgiving Day), the suit will be timely if filed on Friday, November 23, 1956, in the Court of Claims'' is removed and the language ''Thursday, November 23, 1995 (Thanksgiving Day), the suit will be timely if filed on Friday, November 24, 1995, in the Court of Federal Claims'' is added in its place.

2. Paragraph (b) is revised as set forth below.

3. Paragraph (c) is removed.

The revision reads as follows:

§ 301.7503–1 Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.

* * * * *

(b) *Legal holidays.* For the purpose of section 7503, the term *legal holiday* includes the legal holidays in the District of Columbia as found in D.C. Code Ann. 28–2701. In the case of any return, statement, or other document required to be filed, or any other act required under the authority of the internal revenue laws to be performed, at an office of the Internal Revenue Service, or any other office or agency of the United States, located outside the District of Columbia but within an internal revenue district, the term *legal holiday* includes, in addition to the legal holidays in the District of Columbia, any statewide legal holiday of the state where the act is required to be performed. If the act is performed in accordance with law at an office of the Internal Revenue Service or any other office or agency of the United States located in a territory or possession of the United States, the term *legal holiday* includes, in addition to the legal holidays in the District of Columbia, any legal holiday that is recognized throughout the territory or possession in which the office is located.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–23368 Filed 9–22–95; 8:45 am]

BILLING CODE 4830–01–U

POSTAL SERVICE

39 CFR Part 111

Classification Reform; Implementation Standards

AGENCY: Postal Service.

ACTION: Corrections to second advance notice of proposed rulemaking.

SUMMARY: This document corrects an advanced notice of proposed rulemaking published in the Federal Register on Wednesday, August 30, 1995 (60 FR 45298–45323), concerning implementation standards for classification reform.

DATES: Comments on the second notice must be received on or before September 29, 1995.

ADDRESSES: Mail or deliver written comments to the Manager, Mailing Standards, USPS Headquarters, 475 L'Enfant Plaza SW, Washington, DC 20260–2419. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 6800 at the above address.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: After publication, the following elements of the material in the second notice described above were found in need of amendment:

1. Regarding First-Class Mail, Retail subclass, Presort rate category, upgradable letters (60 FR 45309, section I.B.3), and Standard Mail, Regular subclass, upgradable letters (60 FR 45312, section II.B.1), the reference to preparation of packages is incorrect. Under the option for upgradable mail, packaging of mailpieces is not required. The second sentence therefore should be amended in two places to replace ''packages'' with ''trays.''

2. Regarding First-Class Mail, Automation subclass, Carrier Route rate category (letters) (60 FR 45311, section I.C.5), and Standard Mail, Automation subclass, Carrier Route rate category (letters) (60 FR 45314, section II.C.5), the reference to line-of-travel sequence is incorrect. This requirement had been considered by the Postal Service at one time but had not been proposed for retention in this notice. Accordingly, the respective paragraphs describing line-of-travel sequencing should be deleted.

3. Regarding the ''Proposed 3-Digit 'Scheme Sort' Combinations'' listing (60 FR 45317–45319), the second entry in the Midwest Area for Springfield, MO, should read ''Springfield, MO (B)'' (60 FR 45318), and should not duplicate the preceding entry.

4. Regarding Periodicals class, Regular subclass, the numbering and lettering sequence at 60 FR 45320 is incorrect. ''Basic Rate Category (421.31)'' should be designated ''a.'' and ''Three- and Five-Digit Rate Category'' and ''Carrier Route Rate Category'' should be designated respectively as ''b.'' and ''c.'' ''Regular Subclass Discounts (421.4)'' should be numbered as ''4.''

5. Regarding Periodicals class rates, chart III–1, ''Periodicals (Regular and Publications Service subclasses)—Letters'' (60 FR 45323), the entry for the 5-digit presort level in the ''Publications Service rate'' column should read ''Publications Service.'' Carrier route rates apply only to the carrier route and 5-digit carrier routes presort levels.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–23498 Filed 9–22–95; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–21–1–6443(b); FRL–5289–7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Missouri submitted its Rule 10 CSR 10–6.065, entitled ''Operating Permits,'' for Federal approval. The rule would establish a mechanism for creating federally enforceable limitations that would reduce sources' potential-to-emit such that sources could avoid major source permitting requirements. This rulemaking proposes to approve this rule as satisfying the requirements, set forth in the Federal Register of June 28, 1989, and authorizes Missouri to issue federally enforceable state operating permits addressing both criteria pollutants (regulated under section 110 of the Clean Air Act) and hazardous air pollutants (regulated under section 112). In the final rules section of the Federal Register, the EPA is approving the state's State Implementation Plan revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by October 25, 1995.

ADDRESSES: Comments may be mailed to Joshua A. Tapp, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Joshua A. Tapp at (913) 551–7606.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the Federal Register.

Dated: August 9, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95–23720 Filed 9–22–95; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF DEFENSE

48 CFR Part 225

Defense Federal Acquisition Regulation Supplement; Offset Implementation Costs

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comment.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to change the phrase ''offset administrative costs'' to ''offset implementation costs'' in order to clarify the scope of costs which may be recovered by a U.S. defense contractor if the foreign military sale Letter of Offer and Acceptance is financed wholly with customer cash or repayable foreign finance credits. The proposed rule also deletes the examples of offset administrative costs.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address below on or before November 24, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUS (AT&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D019 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends language in the Defense Federal Acquisition Regulation Supplement (DFARS) 225.7303–2(a)(3) to change ''offset administrative costs'' to ''offset implementation costs,'' and also changes ''administer specific requirements of'' to ''implement'' in 225.7303–2(a)(3)(i). The examples at 225.7303–2(a)(3)(iii) are deleted. These changes are proposed in order to clarify that the U.S. contractor may recover the full cost necessary to implement an offset agreement.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the change in terminology from ''administrative'' to ''implementation'' is intended only to clarify the scope of costs covered. Furthermore, most companies involved in offset arrangements are not small business entities. An Initial Regulatory Flexibility Analysis has therefore not been prepared. Comments are invited from small businesses and other increased parties. Comments from small entities concerning the affected DFARS Subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D019 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any additional information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 225 is proposed to be amended as follows:

PART 225—FOREIGN ACQUISITION

1. The authority citation for 48 CFR Part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 225.7303–2 is amended by revising paragraph (a)(3) to read as follows:

225.7303–2 Cost of doing business with a foreign government or an international organization.

(a) * * *

(3) Offset implementation costs.

(i) A U.S. defense contractor may recover costs incurred to implement its offset agreement with a foreign government or international organization if the foreign military sale Letter of Offer and Acceptance is financed wholly with customer cash or repayable foreign military finance credits.

(ii) The U.S. Government assumes no obligation to satisfy or administer the offset requirement or to bear any of the associated costs.

* * * * *

[FR Doc. 95–23551 Filed 9–22–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of the comment period for the proposed special rule.

SUMMARY: On February 17, 1995, the Fish and Wildlife Service (Service) published a proposed special rule in the Federal Register (February 17, 1995, 60 FR 9484) pursuant to section 4(d) of the Endangered Species Act (Act), to replace the blanket prohibitions against incidental take of spotted owls with a narrower, more tailor-made set of standards that reduce prohibitions applicable to timber harvest and related activities on specified non-Federal forest lands in Washington and California. The comment period was scheduled to end on September 15, 1995. The intent of this document is to reopen the comment period to November 24, 1995.

DATES: The comment period for written comments is reopened until November 24, 1995.

ADDRESSES: Comments and materials concerning this proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181.

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smitch, Assistant Regional

Director, North Pacific Coast Ecoregion, 3704 Griffin Lane SE, Suite 102, Olympia, Washington 98501 (360/534–9330); or Mr. Ron Crete, Manager, Habitat Protection and Restoration, Office of Technical Support-Forest Resources, P.O. Box 3623, Portland, Oregon 97204–3623 (503/326–6700).

SUPPLEMENTARY INFORMATION:

Background

The implementing regulations for threatened wildlife generally incorporate the prohibitions of section 9 of the Endangered Species Act of 1973, as amended (Act), for endangered wildlife, except when a ''special rule'' promulgated pursuant to section 4(d) of the Act has been issued with respect to a particular threatened species. At the time the northern spotted owl, *Strix occidentalis caurina,* was listed as a threatened species in 1990, the Service did not promulgate a special section 4(d) rule and therefore, all of the section 9 prohibitions, including the ''take'' prohibitions, became applicable to the species. To replace the blanket prohibitions against take of spotted owls, the Service published a proposed special rule, 50 CFR Part 17, on February 17, 1995, in the Federal Register, pursuant to section 4(d) of the Act, which proposes a narrower, more tailor-made set of standards that reduce prohibitions applicable to timber harvest and related activities on specified non-Federal forest lands in Washington and California.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Dated: September 11, 1995.

Don Weathers,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 95–23556 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–55–P

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50 CFR Part 17

RIN 1018–AD46

Endangered and Threatened Wildlife and Plants; Proposed Endangered or Threatened Status for Nineteen Plant Species From the Island of Kauai, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 17 plants: *Alsinidendron lychnoides* (kawawaenohu), *Alsinidendron viscosum* (No common name (NCN)), *Cyanea remyi* (haha), *Cyrtandra cyaneoides* (mapele), *Delissea rivularis* ('oha), *Hibiscadelphus woodii* (hau kuahiwi), *Hibiscus waimeae* ssp. *hannerae* (koki'o ke'oke'o), *Kokia kauaiensis* (koki'o), *Labordia tinifolia* var. *wahiawaensis* (kamakahala), *Phyllostegia knudsenii* (NCN), *Phyllostegia wawrana* (NCN), *Pritchardia napaliensis* (loulu), *Pritchardia viscosa* (loulu, *Shiedea helleri* (NCN), *Schiedea membranacea* (NCN), *Schiedea stellarioides* (laulihilihi), and *Viola kauaensis* var. *wahiawaensis* (nani wai'ale'ale). The Service also proposes threatened status for two plant species: *Cyanea recta* (haha) and *Myrsine linearifolia* (kolea). All of the species are endemic to the island of Kauai, Hawaiian Islands. The 19 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: competition, predation or habitat degradation from introduced species; natural disasters; and trampling by humans. This proposal, if made final, would implement the Federal protection provisions provided by the Act. Listing under the Act would also trigger listed status for these 19 taxa under State law.

DATES: Comments from all interested parties must be received by November 24, 1995. Public hearing requests must be received by November 9, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Manager, Pacific Islands Ecoregion, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Manager, Pacific Islands Ecoregion (see ADDRESSES section) (telephone: 808/541–2749; facsimile: 808/541–2756).

SUPPLEMENTARY INFORMATION:

Background

Alsinidendron lychnoides, Alsinidendron viscosum, Cyanea recta, Cyanea remyi, Cyrtandra cyaneoides, Delissea rivularis, Hibiscadelphus woodii, Hibiscus waimeae ssp. *hannerae, Kokia kauaiensis, Labordia tinifolia* var. *wahiawaensis, Myrsine linearifolia, Phyllostegia knudsenii, Phyllostegia wawrana, Pritchardia napaliensis, Pritchardia viscosa, Schiedea helleri, Schiedea membranacea, Schiedea stellarioides,* and *Viola kauaensis* var. *wahiawaensis* are endemic to the island of Kauai.

The island of Kauai is the northernmost and oldest of the eight major Hawaiian Islands (Foote *et al.* 1972). This highly eroded island, characterized by deeply dissected canyons and steep ridges, is 1,430 square kilometers (sq km) (553 sq miles (mi)) in area (Department of Geography 1983). Kauai was formed about six million years ago by a single shield volcano. Its caldera, once the largest in the Hawaiian Islands, now extends about 16 km (10 mi) in diameter and comprises the extremely wet, elevated tableland of Alakai Swamp (Department of Geography 1983). Because the highest point on Kauai, at Kawaikini Peak, is only 1,598 m (5,243 ft) in elevation (Walker 1990), it lacks the contrasting leeward montane rainfall patterns found on other Hawaiian islands that have higher mountain systems. Rainfall is distributed throughout the upper elevations, especially at Mount Waialeale, Kauai's second highest point at 1,569 m (5,148 ft) in elevation (Walker 1990) and one of the wettest spots on earth, where annual rainfall averages 1,145 centimeters (cm) (450 inches (in)) (Wagner *et al.* 1990). To the west of the Alakai Swamp is the deeply dissected Waimea Canyon, extending 16 km (10 mi) in length and up to 1.6 km (1 mi) in width. Later volcanic activity on the southeastern flank of the volcano formed the smaller Haupu caldera. Subsequent erosion and collapse of its flank formed Haupu Ridge (Macdonald *et al.* 1983). One of the island's most famous features is the Na Pali Coast, where stream and wave action have cut deep valleys and eroded the northern coast to form precipitous cliffs as high as 910 m (3,000 ft) (Joesting 1984).

Because of its age and relative isolation, levels of floristic diversity and endemism are higher on Kauai than on any other island in the Hawaiian archipelago. However, the vegetation of Kauai has undergone extreme alterations because of past and present land use. Land with rich soils was altered by the early Hawaiians and, more recently, converted to agricultural use (Gagne and Cuddihy 1990) or pasture. Intentional or inadvertent introduction of alien plant and animal species has also contributed to the reduction of native vegetation on the island of Kauai. Native forests are now

limited to the upper elevation mesic and wet regions within Kauai's conservation district. The 19 taxa proposed in this rule occur in that district, between 150 and 1,310 m (500 and 4,300 ft) elevation, within large State-owned tracts of natural area reserves, forest reserves, and parks, and smaller privately owned tracts. Most of the proposed taxa persist on steep slopes, precipitous cliffs, valley headwalls, and other regions where unsuitable topography has prevented agricultural development or where inaccessibility has limited encroachment by alien animal and plant species.

The 19 taxa proposed in this rule are distributed mostly in the northern and northwestern portions of the island and grow in a variety of vegetation communities (shrublands, forests, and mixed communities), elevational zones (lowland to montane), and moisture regimes (dry to wet). Only one species, *Pritchardia napaliensis*, is found in lowland dry communities. These once abundant communities are now fragmented due to fire, development, and the ingression of alien plants and animals. Lowland dry forests in Hawaii are characterized by an annual rainfall of 50 to 200 cm (20 to 80 in) which falls between November and March, and a well-drained, highly weathered substrate rich in aluminum (Gagne and Cuddihy 1990).

Most populations of the 19 taxa in this proposed rule are in lowland mesic or wet shrubland or forest communities. Lowland mesic shrublands lie between 30 and 850 m (100 and 2,790 ft) elevation and are characterized by an open or closed canopy up to 3 m (10 ft) tall with little or no herbaceous layer development. These shrublands usually occur in habitats where forests cannot develop, such as on cliffs, ridges, and steep slopes. The annual rainfall of 100 to 200 cm (40 to 80 in) falls primarily during the winter months (Gagne and Cuddihy 1990). Lowland mesic forest communities lie between 30 and 1,600 m (100 and 5,250 ft) elevation and are characterized by a 2 to 20 m (6.5 to 65 ft) canopy and a diverse understory of shrubs, herbs, and ferns. The annual rainfall of 120 to 380 cm (45 to 150 in) falls predominantly between October and March (Gagne and Cuddihy 1990). Lowland mesic forests often grade into lowland wet forests that are typically found on the windward sides of islands or in sheltered leeward situations between 100 and 1,200 m (330 and 3,940 ft) elevation. The rainfall in this lowland wet community may exceed 500 cm (200 in) per year. These forests were once the predominant vegetation on Kauai but now exist only on steep rocky terrain or cliff faces. The substrate is generally well-drained soils that may support tree canopies up to 40 m (130 ft) in height (Cuddihy and Stone 1990, Gagne and Cuddihy 1990). The habitat of 8 of the 19 taxa in this proposed rule extends to the higher elevation montane mesic or wet forests. *Alsinidendron lychnoides*, *Delissea rivularis*, and *Schiedea helleri* are the only proposed taxa found strictly within these montane communities, which typically occur above 910 m (3,000 ft) evaluation (Hawaii Heritage Program (HHP) 1994a). The annual rainfall in montane communities may exceed 700 cm (280 in) (Gagne and Cuddihy 1990).

The land that supports these 19 plant taxa is owned by various private parties and the State of Hawaii (including State parks, forest reserves, and natural area reserves).

Discussion of the 19 Taxa Proposed for Listing

Alsinidendron lychnoides was first described by Wilhelm Hillebrand (1888) as *Schiedea lychnoides* based on a specimen collected by Valdemar Knudsen (between about 1853 and 1871) above Waimea, Kauai. While both Hillebrand and Amos A. Heller (1897) believed that there were good reasons to place *Schiedea lychnoides* in the genus *Alsinidendron*, it wasn't until 1944 that Earl E. Sherff transferred the species to this genus.

Alsinidendron lychnoides, a member of the pink family (Caryophyllaceae), is a weakly climbing or sprawling subshrub. The main stems are 0.4 to 3 m (1.3 to 9.8 ft) long with short side branches. The plant is woody, at least at the base, and densely covered with fine glandular hairs throughout. The thin leaves are egg-shaped to elliptic and are 3.5 to 6.5 cm (1.4 to 2.6 in) long and 1.5 to 3.8 cm (0.6 to 1.5 in) wide. Eighteen to 21 flowers are arranged in clusters with stalks ranging from 2 to 2.4 cm (0.8 to 0.9 in) long. The four sepals are white and thin, and remain so at maturity. The outer two sepals greatly overlap the inner ones. The sepals are oblong-ovate. 10 to 12 millimeters (mm) (0.4 to 0.5 in) long, but enlarge to 12 to 16 mm (0.5 to 0.6 in) long in fruit, completely enclosing the fruit at maturity. The stamens are scarcely fused at the base with basal outgrowths 2.5 to 3.5 mm (0.1 in) long. nearly as wide, and two- to three-toothed. The fruit are egg-shaped capsules, 9 to 12 mm (0.4 to 0.5 in) long. with 8 to 11 valves. The black seeds are approximately 1 mm (0.04 in) long with low transverse ridges on the surface. This species is distinguished from others in this endemic Hawaiian genus by the weakly climbing or sprawling habit, color of the sepals, number of flowers per cluster, and size of the leaves. *Alsinidendron lychnoides* is closely related to *Alsinidendron viscosum*, which differs primarily in having narrower leaves, fewer capsule valves, and fewer flowers per cluster (Wagner *et al.* 1990).

Historically, *Alsinidendron lychnoides* has been found on the east rim of Kalalau Valley near Keanapuka, the western and southeastern margins of the Alakai Swamp, and southwest of the Swamp near Kaholuamano on the island of Kauai (HHP 1994b2 to 1994b4, 1994b7; Wagner *et al.* 1990). This species is extant on State-owned land in the Alakai Swamp, including the Alakai Wilderness Preserve, and on State-owned land on the east rim of Kalalau Valley. This latter population occurs on the boundary of Hono O Na Pali Natural Area Reserve (NAR) and Na Pali Coast State Park. The four known populations contain a total of fewer than 10 plants (HHP 1994b1, 1994b5, 1994b6; Hawaii Plant Conservation Center (HPCC) 1992a; Wood and Perlman 1993a; Yoshioka 1992). *Alsinidendron lychnoides* typically grows in montane wet forest dominated by *Metrosideros polymorpha* ('ohi'a) and *Cheirodendron* sp. ('olapa), or by 'ohi'a and *Dicranopteris linearis* (uluhe), trailing on the ground or on other vegetation, and at elevations between 1,100 and 1.320 m (3,600 and 4,330 ft). Associated plant species included *Athyrium* sp., *Carex* sp., *Cyrtandra* sp. (ha'iwale), *Machaerina* sp. ('uki), *Vaccinium* sp. ('ohelo), *Peperomia* sp. ('ala 'ala wai nui), *Hedyotis terminalis* (manono), *Astelia* sp. (pa'iniu), and *Broussaisia arquta* (Kanawao) (HHP 1994b5, 1994b6; HPCC 1992a; Wagner *et al.* 1990; Marie M. Bruegmann, U.S. Fish and Wildlife Service (USFWS). *in litt., 1994).*

The major threats to *Alsinidendron lychnoides* are competition from the aggressive alien plant species *Rubus arqutus* (prickly Florida blackberry), habitat degradation by feral pigs (*Sus srofa*), and trampling by humans. One plant has died since Hurricane 'Iniki struck Kauai in September 1992. This species is also threatened by a risk of extinction from naturally occurring events (such as landslides or hurricanes) and/or reduced reproductive vigor due to the small number of extant individuals (Center for Plant Conservation (CPC) 1990; HHP 1994b1, 1994b5., 1994b6; HPCC 1992a; M. Bruegmann, *in litt*., 1994).

Horace Mann, Jr. (1866) originally described *Alsinidendron viscosum* as *Schiedea viscosa* based on a collection he made with William T. Brigham

(between 1864 and 1865) on Kauai (Wagner *et al.* 1990). He chose the specific name in reference to the sticky hairs covering the whole plant. Later, Sherff (1944) placed the taxon in the genus *Alsinidendron* based on a reassessment of this species and *Schiedea lychnoides*, as suggested by Hillebrand (1888) and Heller (1897).

Alsinidendron viscosum, a member of the pink family, is a weakly climbing or sprawling subshrub. The stems are 0.6 to 3 m (2.0 to 9.8 ft) long, and densely covered with fine glandular hairs throughout. The thin and membranous leaves are narrowly elliptic and are 2.5 to 5 cm (1.0 to 2.0 in) long and 0.8 to 1.8 cm (0.3 to 0.7 in) wide. Usually three to nine flowers are arranged in loose clusters with stalks ranging from 2 to 3.5 cm (0.8 to 1.4 in) long. The four sepals are white, thin, and membranous, and remain so at maturity. The outer two sepals greatly overlap the inner ones. The sepals are oblong in shape and 8 to 9 mm (0.3 in) long. but enlarge to approximately 12 mm (0.5 in) long in fruit, completely enclosing the fruit at maturity. The stamens are scarcely fused at the base and the basal outgrowths are about 3 mm (0.1 in) long, nearly as wide, and two-toothed. The fruits are egg-shaped capsules, 8 to 12 mm (0.3 to 0.5 in) long, and opening by five to seven values. The seeds are dark reddish brown, and approximately 0.8 mm (0.03 in) long with a minutely hairy surface. This species is distinguished from others in this endemic Hawaiian genus by the weakly climbing or sprawling habit, color of the sepals, number of flowers per cluster, and size of the leaves. *Alsinidendron viscosum* is closely related to*Alsinidendron lychnoides*, which differs primarily in having wider leaves and more capsule valves and flowers per cluster (Wagner *et al.* 1990).

Historically, *Alsinidendron viscosum* was known from the Kaholuamano, Kokee, Halemanu, Nawaimaka, and Waialae areas of northwestern Kauai (HHP 1994c1 to 1994c3). This species had not been seen since Forbes' 1917 collection near Kauaikinana in Kokee when, in 1991, Steven Perlman and Kenneth Wood of HPCC discovered a population of 11 mature plants on the ridge between Waialae and Nawaimaka valleys. In 19893, another 20 to 30 plants were discovered in the same general area on a north-facing ridge in Nawaimaka Valley. In 1992, Timothy Flynn and David Lorence of the National Tropical Botanical Garden (NTBG) located 10 plants along the Mohihi-Waialae Trail. The 2 known populations (2 subpopulations in Nawaimaka Valley and 1 population on Mohihi-Waialae Trail) total between 40 and 60 mature plants on State-owned land. One population is within the Alakai Wilderness Preserve (Flynn and Lorence 1992; HHP 1994c4; HPCC 1993a1, 1993a2; Yoshioka 1992; Timothy Flynn and Kenneth Wood, NTBG, pers. comms., 1994). *Alsinidendron viscosum* is typically found at elevations between 820 and 1.070 m (2,700 and 3,510 ft), on steep slopes in *Acacia koa* (koa)-'ohi'a lowland mesic or set forest. Associated plant species include *Alyxia oliviformis* (maile), *Bobea* sp. (*'ahakea), Carex* sp., *Dodonaea viscosa* ('a'ali'i), *Ilex anomala* ('aiea), *Melicope* sp., (alani), *Pleomele* sp. (hala pepe), and *Psychotria* sp. (kopiko) (HHP 1994c4; HPCC 1993a1, 1993a2; Flynn and Lorence 1992; Wagner *et al.* 1990; K. Wood, pers. comm., 1994).

Destruction of habitat by feral pigs and goats (*Capra hircus*); competition with the alien plant species prickly Florida blackberry, *Lantana camara* (lantana), and *Melinis minutiflora* (molasses grass); and a risk of extinction from naturally occurring events and/or reduced reproductive vigor, due to the small number of extant populations and individuals, are the major threats to *Alsinidendron viscosum* (HHP 1994c4; HPCC 1993a1, 1993a2; Steven Perlman, and K. Wood, NTBG, pers. comms., 1994; Christa Russell, The Nature Conservancy of Hawaii (TNCH), pers. comm. 1994).

While a member of the Austrian East Asiatic Exploring Expedition, Dr. Heinrich Wawra collected a new lobelioid on Kauai which he later described and named *Delissea recta* (Wawra 1873). In 1888, Hillebrand transferred this species to the genus *Cyanea*, and this is the name accepted in the current treatment of the family (Lammers 1990). Other published names which Lammers (1990) considers to be synonymous with *Cyanea recta* include *Cyanea larrisonii*, *Cyanea rockii*, *Cyanea salicina*, *Delissea larrisonii*, and *Delissea rockii* (Rock 1915, St. John 1987b, Wimmer 1968).

Cyanea recta, a member of the bellflower family, is an unbranced shrub 1 to 1.5 m (3.3 to 4.9 ft) tall. The narrowly elliptic leaves are 12 to 28 cm (4.7 to 11 in) long and 1.2 to 5 cm (0.5 to 2 in) wide, with minutely toothed margins. The upper surface is green and smooth, while the lower surface is whitish green to pale green, and smooth or hairy. Five to seven flowers are arranged on an inflorescence stalk 7 to 10 cm (3 to 4 in) long, each having an individual stalk 5 to 17 mm (0.2 to 0.7 in) in length. The densely hairy flowers are purple or white with purple longitudinal stripes, 30 to 40 mm (1.2 to 1.6 in) long, and 3 to 4 mm (0.1 to 0.2 in) wide, with spreading lobes. The staminal column is smooth or sparsely hairy at the base. The anthers are covered with minute epidermal projections, the lower two with tufts of white hairs at the tip. The fruit is an egg-shaped, purple berry. *Cyanea recta* is distinguished from other species in the genus that grow on Kauai by the following collective characteristics: horizontal or ascending inflorescence, narrowly elliptic leaves 12 to 28 cm (4.7 to 11 in) long, flat leaf margins, and purple berries (Lammers 1990).

Historically, *Cyanea recta* was known from scattered locations of northeastern and central Kauai, including upper Hanalei Valley, Waioli Valley, Hanapepe Valley, Kalalau cliffs, Wainiha Valley, Makaleha Mountains, Limahuli Valley, Powerline Trail, and the Lehua Makanoe-Alakai area (HHP 1994d1 to 1994d7). Currently, six populations of this species, totalling approximately 500 to 1,500 individuals, are found on State and private land in the following areas: upper Waioli Valley, with more than 150 plants; Wainiha Valley, with several hundreds of plants; Makaleha Mountains, with an estimated 123 plants; Limahuli Valley with fewer than 50 plants; Powerline Trail with a single plant; and the back of Hanalei Valley with an unknown number of plants (HHP 1994d3, 1994d8 to 1994d10; HPCC 1992b, 1993c1, 1993c2; Lorence and Flynn 1993a, 1993b; K. Wood and S. Perlman, pers. comms., 1994). *Cyanea recta* grows in lowland wet or mesic 'ohi'a forest or shrubland, usually in gulches or on slopes, and typically from 400 to 940 m (1,300 to 3,070 ft) elevation. Associated plant species include kopiko, *Antidesma* sp. (hame), *Cheirodendron platyphyllum* (lapalapa), *Cibotium* sp. (hapu'u), and *Diplazium* sp. (HHP 1992; HPCC 1992b, 1993c1, 1993c2; Lammers 1990; Lorence and Flynn 1993a, 1993b).

The major threats to *Cyanea recta* are bark removal by rats; habitat degradation by feral pigs; browsing by goats; and competition with the alien plant species *Blechnum occidentale* (blechnum fern), lantana, *Rubus rosifolius* (thimbleberry), *Clidemia hirta* (Koster's curse), *Crassocephalum crepidioides*, *Deparia petersenii*, *Erechtites valerianifolia* (fireweed), *Melastoma candidum*, *Paspalum conjugatum* (Hilo grass), *Sacciolepis indica* (Glenwood grass), and *Youngia japonia* (Oriental hawksbeard) (Lorence and Flynn 1993a, 1993b; Wood and Perlman 1993b; K. Wood, pers. comm., 1994).

The French naturalist and ethnologist Ezechiel Jules Remy first collected *Cyanea remyi* on Kauai or Niihau between 1851 and 1855. The specimen, labelled as an unidentified *Delissea*, languished in the herbarium of the Natural History Museum in Paris until Joseph F. Rock formally described it and named it in honor of the collector, in 1917. In the current treatment of the family, Lammers (1990) surmised that the taxon may be synonymous with *Cyanea truncata* due, at that time, to the inadequate material available for study. However, several recent collections by botanists from NTBG have confirmed the distinctness of this species (Lammers 1993; Thomas Lammers, Field Museum of Natural History, and S. Perlman, pers. comms., 1994).

Cyanea remyi, a member of the bellflower family, is a shrub 0.9 to 2 m (3 to 6.6 ft) tall with generally unbranched stems 1 to 2.5 cm (0.4 to 1 in) in diameter. The stems are erect, unarmed (lacking prickles), dark purple and hairy toward the apex, and brown and hairless below. The leaves are broadly elliptic, egg-shaped, or broadly oblong, and 16 to 40 cm (6 to 16 in) long and 9.5 to 19.5 cm (3.7 to 7.7 in) wide. The upper leaf surface is green, glossy, and hairless. The lower leaf surface is whitish green and glossy with scattered short white hairs on the midrib and veins. The leaf margins are hardened and slightly toothed. The inflorescence rises upward, contains 6 to 23 flowers, and is covered with short white hairs. The dark maroon sepal lobes are triangular or narrowly triangular, spreading or ascending, and 4 to 6 mm (0.2 in) long and 1 to 2 mm (0.04 to 0.08 in) wide. The tubular flowers, 40 to 53 mm (2 in) long, have two lips, are dark purple (shading to purplish white at the apex of the lobes on their inner surface), and are densely covered with short white hairs. The flower tube is curved, 30 to 31 mm (1 in) long and 5 to 5.5 mm (0.2 in) in diameter. The staminal column is slightly protruding. The maroon or dark purple fruit is a round berry, 10 to 13 mm (0.4 to 0.5 in) in diameter, with orange flesh and small projections on the outer surface. *Cyanea remyi* is distinguished from others in the genus that grow on Kauai by its shrubby habit; relatively slender, unarmed (lacking prickles) stems; smooth or minutely toothed leaves; densely hairy flowers; the shape of the calyx lobes; length of the calyx and corolla, and length of the corolla lobe relative to the floral tube (Lammers and Lorence 1993).

Cyanea remyi was originally known only from Remy's nineteenth century collection. In 1991, after more than 130 years, *Cyanea remyi* was rediscovered in the Blue Hole on Kauai by botanists from NTBG. Currently, this species is known from four widely separated locations in northeastern and southeastern Kauai: a population of 14 plants in Waioli Valley; several hundred plants at the base of Mount Waialeale; about 140 to 180 plants in the Wahiawa Mountains, near Hulua; and a population of about 10 to 50 plants on the summit plateau of the Makaleha Mountains. This species, therefore, totals over several hundred plants on State and private land. *Cyanea remyi* is usually found in lowland wet forest or shrubland at an elevation of 360 to 930 m (1,180 to 3,060 ft). Associated plant species include hame, kanawao, 'ohi'a, *Freycinetia arborea* ('ie'ie), and *Perrottetia sandwicensis* (olomea) (HHP 1992, 1994e; HPCC 1991a1, 1991a2, 1992c; Lorence and Flynn 1991, 1993a, 1993b).

Competition with the alien plant species fireweed, Hilo grass, *Psidium cattleianum* (strawberry guava), thimbleberry, and *Melastoma candidum;* habitat degradation by feral pigs; browsing by goats; predation by rats; unidentified slugs that feed on the stems; and a risk of extinction from naturally occurring events, due to the small number of remaining populations, are the major threats to *Cyanea remyi* (HPCC 1991a1, 1991a2, 1992c; Lorence and Flynn 1991, 1993b; S. Perlman, pers. comm., 1994).

In 1909, J.F. Rock collected a plant specimen on Kauai which he named *Cyrtandra cyaneoides* (Rock 1913a). The specific epithet refers to the resemblance of this distinctive plan to a species of the endemic Hawaiian genus *Cyanea.*

Cyrtandra cyaneoides, a member of the African violet family (Gesneriaceae), is an erect or ascending, fleshy, unbranched shrub, about 1 to 1.3 m (3.3 to 4.3 ft) tall. The opposite, symmetrical, egg-shaped leaves are fleshy and leathery, 40 to 55 cm (16 to 22 in) long and 22 to 35 cm (9 to 14 in) wide. The upper surface of the toothed leaves is wrinkled with impressed veins and sparsley covered with long hairs. The lower surface has raised veins and is sparsely covered with hairs. The leaf stalks are 4.5 to 14 cm (1.8 to 5.5 in) long and winged. The white flowers, covered with shaggy brown hairs, arise from the leaf axils in small dense clusters. The corolla tube (fused petals) is narrowly funnelform, curved near the middle, about 25 mm (1 in) long, and hairless. The corolla lobes are elliptic and about 7 mm (0.3 in) long. The bilaterally summetrical calyx is spindle-shaped in bud and about 26 to 36 mm (1 to 1.4 in) in length when the flower is fully open, but falls off after the flower matures. The fruit is an egg-shaped berry which is covered with shaggy hairs, at least when young. Although poorly known, *Cyrtandra cyaneoides* is a very distinctive species (Wagner *et al.* 1990). It differs from others of the genus that grow in Kauai by being a succulent, erect or ascending shrub and having a bilaterally symmetrical calyx that is spindle-shaped in bud and falls off after flowering; leaves with a wrinkled surface, 40 to 55 cm (16 to 22 in) long and 22 to 35 cm (9 to 14 in) wide; and berries with shaggy hairs (Wagner *et al.* 1990).

Cyrtandra cyaneoides was originally known only from the type collection made at Kaholuamanu 80 years ago, along the trail to Waialae Valley on the island of Kauai (HHP 1994fl, Wagner *et al.* 1990). In 1991, botanists from NTBG discovered a population of 50 to 100 individuals at Namolokama above Lumahai Valley. Three additional populations were discovered over the next 2 years: 1 plant on the Makaleha Plateau; more than 300 plants in Wainiha Valley; and 1 plant in upper Waioli Valley for a total of between 350 and 400 plants (HHP 1994f2; Lorence and Flynn 1993a, 1993b; Wood and Perlman 1993b). The four known populations occur on private and State land, between 550 and 1,220 m (1,800 and 4,000 ft) elevation. This species typically grows on steep slopes or cliffs near streams or waterfalls in lowland or montane wet forest or shrubland dominated by 'ohi'a or a mixture of 'ohi'a and uluhe. Associated species include *Boehmeria grandis* ('akolea). *Pipturus* sp. (mamaki), 'olapa, 'uki, *Athyrium* sp., and *Jedyotis* sp. (manono) (Lorence and Flynn 1993a, 1993b; Wood and Perlman 1993b).

The major threat to *Cyrtandra cyaneoides* is competition with alien plant species such as fireweed, Hilo grass, thimbleberry, *Deparia petersenii,* and *Drymaria cordata* (pipili). Because of the small number of known populations, this species is especially vulnerable to extinction by reduced reproductive vigor and/or naturally occurring events (for example, landslides and hurricanes). Feral pigs are reported to occur in lower Wainiha Valley; however, no evidence exists of their incursion into the upper valley to date (HHP 1994f2; HPCC 1993d; Lorance and Flynn 1993a, 1993b; S. Perlman, pers. comm., 1994).

In 1909, J.F. Rock collected a plant specimen on Kauai which he later named *Cyanea rivularis* (Rock 1913b). In 1943, F.E. Wimmer transferred this

species to *Delissea*, and Thomas Lammers (1990), in the current treatment of this endemic Hawaiian genus, concurred. The specific epithet refers to streams or brooks, the typical habitat of this plant.

Delissea rivularis, a member of the bellflower family, is a shrub, unbranched or branched near the base, with hairy stems 4 to 5 m (13 to 16 ft) long. The leaves are arranged in a rosette at the tips of the stems. The elliptic to lance-shaped leaves are 20 to 30 cm (8 to 12 in) long and 3 to 8 cm (1.2 to 3.2 in) wide, with minutely toothed margins. Both leaf surfaces are covered with hairs. Six to 12 flowers are arranged on an inflorescence stalk 4 to 8 cm (1.6 to 3.2 in) long, each having an individual stalk 10 to 15 mm (0.4 to 0.6 in) in length. The curved, hairy flowers are white with blue longitudinal stripes, 30 to 40 mm (1.2 to 1.6 in) long, with one dorsal knob. The fruit is a spherical, dark purple berry 10 to 15 mm (0.4 to 0.6 in) in diameter. This species is distinguished from others of the genus by the color, length, and curvature of the corolla; shape of the leaves; and presence of hairs on the stems, leaves, flower clusters, and corolla (Lammers 1990).

Historically, *Delissea rivularis* was known from Waiakealoha waterfall (location unknown), Waialae Valley, Hanakoa Valley, and Kaholuamano on the island of Kauai (HHP 1994g1 to 1994g3, Lammers 1990). This species, recently recollected after almost 80 years, is now known only from the upper Hanakoa Valley stream area of northwestern Kauai (HPCC 1993e; S. Perlman, pers. comm., 1994). This population of 15 to 20 plants, scattered over an area of more than 100 sq m (1,100 sq ft), is on State land within the Hono O Na Pali NAR at about 1,190 m (3,900 ft) elevation. *Delissea rivularis* is found on steep slopes in 'ohi'a-'olapa montane wet or mesic forest, near streams. Associated native species include kanawao, *Athyrium* sp., *Carex* sp., *Coprosma* sp. (pilo), and *Sadleria* sp. ('ama'u) (HPCC 1993e; Lammers 1990; S. Perlman, pers. comm., 1994).

The major threats to *Delissea rivularis* are competition with the encroaching alien plant prickly Florida blackberry, habitat destruction by feral pigs, and reduced reproductive vigor and/or a risk of extinction from naturally occurring events due to the small number of remaining individuals in the single remaining population (HPCC 1993e; S. Perlman, pers. comm., 1994).

In 1991, several new species were collected by Ken Wood of NTBG, M. Query, and Steve Montgomery on the cliff walls of Kalalau Valley, Kauai, including a new species in the endemic Hawaiian genus *Hibiscadelphus*. *Hibiscadelphus woodii* was described in 1995 by D. Lorence and Warren Wagner (1995; Wood and Perlman 1993a; D. Lorence and K. Wood, pers. comms., 1994).

Hibiscadelphus woodii, a member of the mallow family (Malvaceae), is a small branched tree 2.5 to 5 m (8.2 to 16.4 ft) tall with a rounded crown. The leaves have stalks 2.8 to 5.8 cm (1.1 to 2.3 in) long, with star-shaped hairs when young which are mostly lost as the leaf matures. Awl-shaped stipules, also covered with star-shaped hairs, are found at the base of the leaf stalk. The leaf blade is ovate, 7 to 9 cm (2.6 to 3.5 in) long, and 6.5 to 8.4 cm (2.6 to 3.3 in) wide. Star-shaped hairs are scattered along the veins of the leaves. The leaf margins are irregularly and coarsely toothed with the teeth either pointed or rounded. Flowers are borne individually on stalks 1.4 to 2.1 cm (0.6 to 0.8 in) long with star-shaped hairs. Below each flower are four to six bracts 11 to 15 mm (0.4 to 0.6 in) long and 1.8 to 4 mm (0.07 to 0.16 in) wide. The calyx is tubular, 1.3 to 1.5 cm (0.5 to 0.6 in) long, green shallowly lobed, and moderately hairy with star-shaped hairs. The corolla is 4.5 to 4.7 cm (1.8 to 1.9 in) long, yellow with a coppery tinge when fresh which rapidly turns purplish-maroon. The staminal column extends about 7 mm (0.3 in) beyond the lobes of the corolla. Fruits are not known from this species. *Hibiscadelphus woodii* differs from the other known Kauai species by differences in leaf surface and involucral bract characters, and by flower color (Lorence and Wagner 1995; D. Lorence, pers. comm., 1994).

Hibiscadelphus woodii is known only from the site of its discovery in Kalalau Valley on the island of Kauai within the Na Pali Coast State Park, from about 990 to 1,000 m (3,250 to 3,280 ft) elevation. Only four trees of this species are known. The plants grow on cliff walls in an 'ohi'a montane mesic forest with alani, *Dubautia* sp. (na'ena'e), *Lepidium serra* ('anaunau), *Lipochaeta* sp. (nehe), *Lysimachia* sp., *Chamaesyce* sp. ('akoko), manono, *Nototrichium* sp. (kulu'i), *Myrsine* sp. (kolea), and the federally endangered species *Stenogyne campanulata*, *Lobelia niihauensis*, and *Poa mannii* (Mann's bluegrass) (HPCC 1991c; Lorence and Wagner 1995; D. Lorence and K. Wood, pers. comms., 1994).

Habitat degradation by feral goats and pigs, competition and invasion by the alien plant species *Erigeron karvinskianus* (daisy fleabane), nectar robbing by Japanese white-eye (*Zosterops japonicus*), and a risk of extinction from naturally occurring events (e.g., rock slides) and/or reduced reproductive vigor, due to the small number of existing individuals in the only known population, are the major threats to *Hibiscadelphus woodii* (HPCC 1991c; Lorence and Wagner 1995; D. Lorence, pers. comm., 1994).

Reverned John Mortimer Lydgate collected *Hibiscus waimeae* ssp. *hannerae* on Kauai in 1913, and more than 60 years passed before it was collected again, in 1978, by Steven Perlman. Otto and Isa Degener named Lydgate's collection as a variety of *Hibiscus waimeae* in honor of Mrs. Ruth Knudsen Hanner, a supporter of their work on Kauai (Degener and Degener 1962). David M. Bates, the author of the current treatment of the Hawaiian members of the family, elevated the varietal name to a subspecies (Bates 1989, 1990).

Hibicus waimeae ssp. *hannerae*, a member of the mallow family, is a gray-barked tree, 6 to 10 m (20 to 33 ft) tall, with star-shaped hairs densely covering its leaf and flower stalks and branchlets. The circular to broadly egg-shaped leaves are usually 5 to 18 cm (2 to 7 in) long and 3 to 13 cm (1.2 to 5 in) wide. The strongly fragrant flowers are borne singly near the ends of the branches on flower stalks 2 to 3 cm (0.8 to 1.2 in) long. The calyx is tubular, normally 3 to 4.5 cm (1.2 to 1.8 in) long, with lobes 8 to 15 mm (0.2 to 0.6 in) long. The flaring petals are white when the flower opens in the morning, but fade to pinkish in the afternoon. The petals, usually 4 to 6 cm (1.6 to 2.4 in) long, are basally attached to the staminal column to form a tube about 1.5 cm (0.6 in) long. The exserted staminal column is up to 15 cm (6 in) long and reddish to crimson at the tip. The filaments arise in the upper half of the staminal column and spread up to 2.5 cm (1 in) long. The fruit is a cartilaginous, egg-shaped capsule 1.8 to 2.5 cm (0.7 to 1 in) long and hairless. Two subspecies are recognized, both occurring on Kauai: spp. *hannerae* and ssp. *waimeae*. Subspecies *hannerae* is distingushed by having larger leaves but smaller flowers (Bates 1990). The species is distinguished from others of the genus by the position of the anthers along the staminal column, length of the staminal column relative to the petals, color of the petals, and length of the calyx (Bates 1990).

Three collections of *Hibiscus waimeae* ssp. *hannerae* are known, all from the island of Kauai (HHP 1994i2). The Kalihiwai population of this subspecies is apparently extinct and the two remaining populations are found in adjacent valleys on Kauai's northern

coast on State and private land, and total between 75 and 125 individuals. Between 50 and 100 plants are scattered over a 100 sq m (1,100 sq ft) area along the stream in Limahuli Valley, and another 50 or so plants were distributed over a 10 to 100 sq m (110 to 1,100 sq ft) area below the cliffs in the back of Hanakapiai Valley before Hurricane 'Iniki (HPCC 1990a, 1991d). After the hurricane, only 25 plants remain in Hanakapiai Valley (M. Bruegmann, *in litt.*, 1994). In Limahuli Valley, *Hibiscus waimeae* ssp. *hannerae* is growing in an 'ohi'a-uluhe lowland wet forest between 190 and 560 m (620 and 1,850 ft) evaluation. At this location, associated species include 'ahakea, 'ama'u, haha, ha'iwale, and *Syzygium* sp. The Hanakapiai Valley population is growing in *Pisonia* sp. (papala kepau)—*Charpentiera elliptica* (papala) lowland mesic forest with 'ahakea, hame, kopiko, mamaki, and the alien species *Aleurites moluccana* (kukui), between 220 and 370 m (720 and 1,200 ft) (Bates 1990; HHP 1990a, 1994i1; 1994i2; HPCC 1990a, 1991d).

The major threats to *Hibiscus waimeae* ssp. *hannerae* are habitat degradation by feral pigs; competition with alien plant species, including thimbleberry, Koster's curse, and lantana; and a risk of extinction from naturally occurring events (e.g., hurricanes) and/or reduced reproductive vigor due to the small number of remaining populations (HHP 1994i2, 1994i3; HPCC 1990a, 1991d; M. Bruegmann, *in litt.*, 1994).

In 1919, J.F. Rock and Augustus F. Knudsen collected a specimen of a tree that Rock (1919) named as *Kokia rockii* var. *kauaiensis*. Later, Otto Degener and Albert W. Duvel (1934) elevated the variety to a full species, *Kokia kauaiensis*. The current treatment of the family upholds this designation (Bates 1990).

Kokia kauaiensis, a member of the mallow family, is a tree 5 to 10 m (16.4 to 33 ft) tall. The seven- or nine-lobed, circular leaves are 12 to 25 CM (5 to 10 in) wide with a heart-shaped base. The solitary, brick-red flowers are clustered near the ends of the branches on stout flower stalks 3 to 9 cm (1.2 to 3.5 in) long. The broadly egg-shaped floral bracts are 4 to 6 cm (1.5 to 2.4 in) long and hairless except toward the base, which has a sparse covering of long, soft hairs. The curved petals, 10 to 15 cm (4 to 6 in) long, are twisted at the base and densely covered with yellowish, silky hairs. The fruit is an egg-shaped capsule. The egg-shaped seeds are 10 to 12 mm (0.4 to 0.5 in) long and densely covered with reddish, woolly hairs up to 10 mm (0.4 in) long. These species is distinguished from others of this endemic Hawaiian genus by the length of the bracts surrounding the flower head, number of lobes and width of the leaves, the length of the petals, and the length of the hairs on the seeds (Bates 1990).

Kokia kauaiensis is known from six scattered populations on northwestern Kauai, but only five of these populations have been relocated within the last six years (HHP 1994j1 to 1994j4). The five extant populations are found on State land in the following areas: Paaiki Valley; Mahanaloa-Kuia Valley junction within or on the boundary of Kuia NAR; the western side of Kalaulau Valley, and Pohakuao Valley, both within Na Pali Coast State Park; and Koaie Stream branch of Waimea Canyon, where some plants may be within the boundary of the Alakai Wilderness Preserve. The three largest populations contain between 30 and 70 individuals each, with the others each numbering fewer than 10 individuals. Estimates of the total number of individuals range from 145 to 170 (HHP 1994j1, 1994j3 to 1994j6; J. Lau and S. Perlman, pers. comms., 1994). This species typically grows in diverse mesic forest at elevations between 475 and 795 m (1,960 and 2,600 ft). Associated species include 'ahakea, koa, kukui, *Diospyros sandwicensis* (lama), manono, hala pepe, papala, *Nestegis sandwicensis* (olopua), and 'ohi'a (Bates 1990; HHP 1990a, 1994j1, 1994j3 to 1994j6; HPCC 1990b1 to 1990b3; Wood and Perlman 1993a; M. Bruegmann, *in litt.*, 1994; J. Lau, pers. comm., 1994).

Competition with a habitat degradation by the invasive alien plant species lantana, *Passiflora liqularis* (sweet granadilla), thimbleberry, *Kalanchoe pinnata* (air plant), strawberry guava, and *Triumfetta semitriloba* (Sacramento bur); substrate loss; habitat degradation and browsing by feral goats and mule deer (*Odocoileus hemionus*); predation by rats, which eat the seeds; and a risk of extinction from naturally occurring events due to the small number of remaining populations are the major threats affecting the survival of *Kokia kauaiensis* (HHP 1994j1, 1994j3 to 1994j6; HPCC 1990b1 to 1990b3; Wood and Perlman 1993a; M. Bruegmann, *in litt.*, 1994; J. Lau, S. Perlman, and K. Wood, pers. comms., 1994).

Based upon a specimen collected by Steven Perlman on Kauai in 1980, Harold St. John (1984) described *Labordia tinifolia* var. *wahiawaensis*, naming it for the Wahiawa Mountains where it was first collected.

Labordia tinifolia var. *wahiawaensis*, a member of the logania family (Loganiaceae), is a shrub or small tree, usually 2 to 8 m (6.6 to 26.2 ft) tall. The young branches are cylindrical or nearly so and hairless. The elliptic to lance-shaped leaves are usually 4.5 to 21 cm (1.8 to 8.3 in) long and 2 to 5 cm (0.8 to 2 in) wide. The membranous leaves are medium green hairless, and the veins are not impressed on the upper leaf surface. Normally, 9 to 12 hairless flowers are clustered on a downward curving inflorescence stalk 9 to 22 mm (0.35 to 0.9 in) long each having an individual stalk 8 to 11 mm (0.2 to 0.4 in) in length. The pale yellowish green flower is narrowly urn-shaped, 17 to 19 mm (0.7 to 0.75 in) long. The tubular portion of the flower is 5.5 to 7.8 mm (0.2 to 0.3 in) long with long, white hairs inside, while the egg-shaped lobes are 1.7 to 2.3 mm (0.07 to 0.09 in) long. The fruit is an egg-shaped capsule, 8 to 17 mm (0.2 to 0.7 in) long, usually with two valves and an apex with a beak 0.5 to 1.5 mm (0.02 to 0.1 in) long. Three varieties of *Labordia tinifolia* are recognized: var. *lanaiensis* on Lanai and Molokai, var. *tinifolia* on Kauai and four other islands, and var. *wahiawaensis*, endemic to Kauai. Variety *wahiawaensis* is distinguished from the other two by its larger corolla. This species differs from others of the genus by having a long common flower cluster stalk, hairless young stems and leaf surfaces, transversely wrinkled capsule valves, and corolla lobes usually 1.7 to 2.3 mm (0.1 in) long (Wagner *et al.* 1990).

Labordia tinifolia var. *wahiawaensis* is only known from the Wahiawa Drainage in the Wahiawa Mountains of Kauai from about 630 to 740 m (2,070 to 2,430 ft) elevation on privately owned land, within a 0.8 by 1.2 km (0.5 by 0.75 mi) area (HHP 1994k; HPCC 1991e1, 1991e2; Lorence and Flynn 1991). More than 100 plants were known from the area before Hurricane 'Iniki swept over Kauai in 1992. During a 1994 visit to the area, only 20 to 30 surviving individuals were found (S. Perlman, pers. comm., 1994). The plants grow along streams in lowland wet forests dominated by 'ohi'a and often in association with 'olapa or uluhe. Plants found in association with this taxon include ha 'iwale, hame, kopiko, manono, and *Athyrium* sp. (HPCC 1991e1, 1991e2).

The primary threats to the remaining individuals of *Labordia tinifolia* var. *wahiawaensis* are competition with the alien plant strawberry guava, habitat degradation by pigs, trampling by humans, and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of individuals in the only known population (HPCC 1991e1, 1991e2; S. Perlman, pers. comm., 1994).

Lydgate first collected *Myrsine linearifolia* on Kauai in 1912. Edward Y. Hosaka (1940) chose the specific epithet to describe its distinctive linear-lanceolate curved leaves. In an action that was not supported by other taxonomists, Otto and Isa Degener (1971, 1975) transferred several species from the genus *Myrsine* to the genus *Rapanea* based upon minute floral features. The currently accepted treatment of the Hawaiian members of the family follows Hosaka's earlier, broad concept of *Myrsine* (Wagner *et al.* 1990).

Myrsine linearifolia, a member of the myrsine family (Myrsinaceae), is a branched shrub, 2.5 to 8 m (8.2 to 26.2 ft) tall. The slightly fleshy, linear leaves are 5 to 9 cm (1.7 to 3 in) long, 0.25 to 0.4 cm (0.09 to 0.14 in) wide, often yellowish purple toward the base, and tend to be clustered toward the upper branches. The margins of the leaves are smooth and roll slightly toward the underside of the leaf. One to three apparently perfect (containing male and female parts) flowers, on stalks 1 to 4.2 mm (0.04 to 0.17 in) long, occur in clusters among the leaves. The greenish petals are inversely lance-shaped, about 2.2 to 2.5 mm (0.09 to 0.1 in) long, and also have margins fringed with hairs. At maturity, the fruits are black elliptic-shaped drupes, about 6 mm (0.2 in) long. This species is distinguished from others of the genus by the shape, length, and width of the leaves, length of the petals, and number of flowers per cluster (Wagner *et al.* 1990).

Historically, *Myrsine linearifolia* was known from nine scattered locations on Kauai: Olokele Valley, Kalualea, Kalalau Valley and Kahuamaa Flat, Limahuli-Hanakapiai Ridge, Koaie Stream, Pohakuao, Namolokama Summit Plateau, and Haupu (HHP 1994L1, 1991L4, 1994L6, 1994L9). This species is currently known from six populations on State and private land: Kalalau Valley including Kahuamaa Flat above Kalalau, Limahuli-Hanakapiai Ridge, Wahiawa Drainage, Koaie Stream, Pohakuao, and Namolokama Summit Plateau (HHP 1994L2, 1994L3, 1994L5, 1994L7; HPCC 1991f5, Wood and Perlman 1993a; J. Lau, pers. comm., 1994). *Myrsine linearifolia* typically grows in mesic to wet 'ohi'a forests that are sometimes co-dominant with 'olapa or uluhe from 585 to 1,280 m (1,920 to 4,200 ft) elevation (HHP 1994L2, 1994L3, 1994L5, 1994L7; HPCC 1991f5; Wood and Perlman 1993a; J. Lau and K. Wood, pers. comms., 1994). The largest population, located in Kalalau Valley, contains several hundreds of individuals (S. Perlman, pers. comm., 1994). The remaining five populations total about 100 plants; hence, approximately 1,000 to 1,500 individuals are known for the entire species. Plants growing in association with this species include 'ahakea,' aiea, alani, *Eurya sandwicensis* (anini), kopiko, *Lysimachia* sp., and native ferns.

Competition with alien plants such as daisy fleabane, lantana, prickly Florida blackberry, strawberry guava, thimbleberry, and air plant, and habitat degradation by ungulates such as pigs and goats are major threats to *Myrsine linearifolia* (HPCC 1991f1 to 1991f5, 1993f; J. Lau, S. Perlman, and K. Wood, pers. comms., 1994).

Hillebrand (1888) described *Phyllostegia knudsenii* from a specimen collected by Knudsen in the 1800s. He chose the specific epithet to honor the collector.

Phyllostegia knudsenii, a member of the mint family (Lamiaceae), is an erect, perennial herb or vine. The opposite leaves are limp, ovate, faintly pubescent, 11.5 to 18 cm (4.5 to 7 in) long, and 5.1 to 9 cm (2 to 3.5 in) wide. Flowers are borne in groups of two to four along a flower stalk 4 to 6.5 cm (1.6 to 2.6 in) long. The corolla is 6 to 8 mm (0.2 to 0.3 in) long. The fruits are four black fleshy nutlets in each flower and are 1.5 to 2 mm (0.06 to 0.8 in) long. This species differs from others in this genus in its specialized flower stalk. It differs from the closely related *Phyllostegia floribunda* in often having four flowers per group (Hillebrand 1888, HPCC 1993j, Sherff 1935, Wagner *et al.* 1990).

Until 1993, *Phyllostegia knudsenii* was only known from the type collection made in the 1800s, from the woods of Waimea (HHP 1991a, Hillebrand 1888, Sherff 1935, Wagner *et al.* 1990). In 1993, botanists at NTBG rediscovered one individual of this species in Koaie Canyon. This species is found in 'ohi'a lowland mesic forest at 865 m (2,840 ft) elevation. Associated species include olomea, *Cyrtandra kauaiensis* (ulunahele), *Cyrtandra paludosa* (moa), *Elaeocarpus bifidus* (kalia), *Cryptocarya mannii* (holio), *Doodia kunthiana*, *Selaginella arbuscula*, lama, *Zanthoxylum dipetalum* (a'e), *Pittosporum* sp. (ho' awa), *Pouteria sandwicensis* ('ala'a), and *Pritchardia minor* (loulu) (HPCC 1993j; S. Perlman, pers. comm., 1994).

Major threats to *Phyllostegia knudsenii* include habitat degradation by pigs and goats; competition with alien plant species such as pipili, Hilo grass, lantana, and air plant; and a risk of extinction from naturally occurring events (e.g., landslides) and reduced reproductive vigor due to the small number of individuals in the only known population (HPCC 1993j).

Phyllostegia wawrana was described by Sherff (1934) from a collection made in the 1800s. Sherff chose the specific epithet to honor the collector, Dr. Heinrich Wawra.

Phyllostegia wawrana, a member of the mint family, is a perennial vine that is woody toward the base and has long, crinkly hairs along the stem. The leaves are opposite, ovate, and covered with hairs, especially along the veins of the lower surface. The leaves are 10.5 to 20 cm (4.1 to 7.8 in) long and 4 to 11 cm (1.6 to 4.3 in) wide. Flowers are borne in groups of four to six along a leafy flower stalk with one or two short lateral branches. Each of these lateral branches have a pair of leaves at the base. The corolla tube is about 10 mm (0.03 in) long, with an upper lip about 2 mm (0.08 in) long. The fruits are four greenish-black nutlets in each flower and are about 2 mm (0.8 in) long. This species may be related to *Phyllostegia floribunda* and *Phyllostegia knudsenii*, but has a less specialized flower stalk (Degener 1946, Sherff 1934, Wagner *et al.* 1990).

Phyllostegia wawrana was reported from Hanalei in the 1800s and was last observed along Kokee Stream in 1926, until 1993 when NTBG botanists found two populations on State-owned land: 10 to 50 individuals in the Makaleha Mountains and 5 or 6 in Honopu Valley (HHP 1991bl, 1991b2; HPCC 1993k1, 1993k2; Sherff 1934, 1935; Wagner *et al.* 1990). This species grows in 'ohi'a-dominated forest with either 'olapa or uluhe as codominant species. Associated species include *Diplazium sandwichianum*, 'ohelo, kanawao, kolea, kopiko, *Dubautia knudsenii* (na'ena'e), *Scaevola procera* (naupaka kuahiwi), *Gunnera* sp., *Pleomele aurea* (hala pepe), *Claoxylon sandwicense* (po'ola), *Elaphoglossum* sp., 'ala 'ala wai nui, manono, haupu'u, 'ama'u, ho'awa, 'uki, and *Syzygium sandwicensis* ('ohi'a ha) (HPCC 1993k1, 1993k2).

The major threats to *Phyllostegia wawrana* include degradation of habitat by feral pigs and competition with alien plant species such as thimbleberry, *Passiflora mollissima* (banana poka), prickly Florida blackberry, *Melastoma candidum*, fireweed, and daisy fleabane (HPCC 1993k1, 1993k2).

Harold St. John described *Pritchardia napaliensis* based upon a specimen collected by Charles Christensen on Kauai in 1976 (St. John 1981). He named this plant for the Na Pali Coast of Kauai where it was first collected.

Pritchardia napaliensis, a member of the palm family (Arecaceae), is a small palm with about 20 leaves and an open

crown. The palm ranges from 4 to 6 m (13 to 10 ft) tall and has a slender trunk measuring 18 to 20 cm (7 to 8 in) in diameter. The green leave blades are about 85 cm (33.5 in) long and are almost flat irrespective of the longitudinal folds). The lower leave surface is covered with elliptic, pale, thin, flexible, and somewhat translucent scales with fringed margins. Upon maturity, the leaves are almost smooth and the leaf segments are lax, flexible, and droop with increasing age. The flowers are arranged in branched clusters about 14 cm (5.5 in) long which are equal or shorter in length than the leaf stalks. Each flower is associated with a small, bristly bract. Bracts associated with the flowers or flower stalks are sparsely and inconspicuously coated with scales which are usually lost at maturity. The black fruits are 1.7 to 2.3 cm (0.7 to 0.9 in) long, 1.4 to 1.8 cm (0.6 to 0.7 in) in diameter, and inversely egg-shaped. This species is distinguished from others of the genus that grown on Kauai by having about 20 flat leaves with pale scales on the lower surface that fall off with age, inflorescences with hairless main axes, and globose fruits less than 3 cm (1.2 in) long (Read and Hodel 1990).

Pritchardia napaliensis is known from three locations on the island of Kauai on State-owned land: Hoolulu and Waiahuakua valleys in the Hono O Na Pali NAR and Alealau in Kalalau Valley (within or close to the boundaries of Hono O Na Pali NAR and Na Pali Coast State Park) (HHP 1994m1, 1994m2; K. Wood, pers. comm., 1994). This species is not known to occur anywhere else (HHP 1994ml, 1994m2). *Pritchardia napaliensis* typically grows in a wide variety of habitats ranging from lowland dry to mesic forests to montane wet forests dominated by lama and sometimes, kukui, 'ohi'a, and uluhe from 150 to about 1,160 m (500 to about 3,800 ft) elevation (HHP 1994m1, 1994m2; HPCC 1990c1, 1990c2, 1991g; S. Perlman and K. Wood, pers. comms., 1994). The largest population in Hoolulu Valley contains between 60 and 80 plants and the 2 other populations each contain 3 or fewer plants, giving a total of fewer than 90 known individuals for this species (HHP 1994m1, 1994m2; HPCC 1991g; S. Perlman and K. Wood, pers. comms., 1994). Several associated plant species besides those mentioned above include hala pepe, kopiko, *Cordyline fruticosa* (ti), *Cheirodendron trigynum ('olapa),* and *Ochrosia* sp. (holei) (HHP 1994m1, 1994m2; HPCC 1990c1, 1990c2, 1991g).

Major threats to *Pritchardia napaliensis* include habitat degradation and/or grazing by goats and pigs; seed predation by rats; competition with the alien plants air plant, daisy fleabane, lantana, *Psidium guajava* (common guava), and possibly ti; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of remaining populations and individuals (HPCC 1990c1, 1990c2, 1991g).

Pritchardia viscosa was first described by Rock in 1921, based on a specimen he collected on Kauai a year earlier (Beccari and Rock 1921). The specific epithet refers to the very viscous inflorescence, calyx, and corolla.

Pritchardia viscosa, a member of the palm family, is a small palm 3 to 8 m (10 to 26 ft) tall. The lower surface of the leaf blades is silvery grey and covered with small scales. The inflorescences are about the same length as the leaf stalks and consist of one to three loosely branched panicles, each about 15 to 20 cm (6 to 8 in) long. The flowers occur in two opposite rows and are extremely sticky and shiny. The elliptic, pear-shaped fruits are up to 4 cm (1.6 in) long and about 2.5 cm (1 in) wide. This species differs from others of the genus that grow on Kauai by the degree of hairness of lower surface of the leaves and main axis of the flowr cluster, and length of the flower cluster (Read and Hodel 1990).

Historically, *Pritchardia viscosa* was known only from the 1920 collection from Kalihiwai Valley on the island of Kauai (HHP 1994n2). It was not seen again until 1990, when naturalist John Obata and NTBG botanist Ken Wood observed it in the same general area as Rock's type locality off the Powerline Road at 510 m (1,680 ft) elevation on State land (HHP 1994n1; J. Obata, pers. comm., 1991; S. Perlman, pers. comm. 1994). This population of one juvenile and two mature plants comprise the only known extant individuals; three additional plants from this population were destroyed by Hurricane 'Iniki in 1992. The plants are found in an 'ohi'a-uluhe lowland wet forest associated with plant species including 'aiea, 'ahakea, hame, hapu'u, and kopiko (S. Perlman, pers. comm., 1994).

Strawberry guava and alien grasses such as Hilo grass are major threats to *Pritchardia viscosa* because these alien plants are effective competitors for space, light, nutrients, and water. Rats are known to eat the fruit of *Pritchardia viscosa* and are, therefore, a serious threat to the reproductive success of this species (S. Perlman, pers. comm., 1994). At least one of the remaining mature trees has been damaged by spiked boots used by a seed collector to scale these trees (L. Mehrhoff, *in litt.,* 1994). Also, because of the small numbers of individuals in the only known population, this species is susceptible to extinction because a single naturally occurring event (e.g., a hurricane) could destroy all remaining plants.

In 1895, Heller collected a plant specimen on Kauai that Sherff (1943) later named *Schiedea helleri* in honor of its collector. Listed as possibly extinct in the current treatment of the family (Wagner *et al.* 1990), *Schiedea helleri* was recently collected on Kauai by botanists from NTBG (HPCC 1993g).

Schiedea helleri, a member of the pink family, is a vine. The stems, smooth below and minutely hairy above, are probably prostrate and at least 0.15 m (0.5 ft) long with internodes at least 4 to 15 cm (1.6 to 6 in) long. The opposite leaves are somewhat thick and range from 10 to 14 cm (4 to 5.5 in) long and 4.5 to 6 cm (1.8 to 2.4 in) wide. The leaves are triangular, egg-shaped to heart-shaped, conspicuously three-veined, and nearly hairless to sparsely covered with short, fine hairs, especially along the margins. The perfect flowers occur in loose, open branched clusters, each branch being 20 to 26 cm (8 to 10.2 in) long. The flower contains three styles and probably ten stamens. The fruits are capsules, about 3 to 3.4 mm (0.12 to 0.13 in) long. This species differs from others of the genus that grow on Kauai by its viney habitat (Wagner *et al.* 1990).

Schiedea helleri was originally known only from a single location above Waimea, at Kaholuamano on the island of Kauai, collected 100 years ago (HHP 1994o). In 1993, this species was discovered on a steep wall above a side stream off Mohihi Stream, approximately 5.6 km (3.5 mi) north of the original location (HPCC 1993g). The only known population consists of 30 to 40 mature individuals found on a steep cliff in closed 'ohi'a-uluhe montane wet forest on State-owned land, within or close to the Alakai Wilderness Preserve, at approximately 1,070 m (3,500 ft) elevation (HPCC 1993g); S. Perlman, pers. comm., 1994). Other native plants growing in association with this population include hapu'u, kanawao, 'olapa, *Cyanea hirtella* (haha), *Dianella sandwicensis* ('uki'uki), and *Viola wailenalenae* (HPCC 1993g). The federally endangered *Poa sandvicensis* is also found here (M. Bruegmann, *in litt.,* 1994).

Competition with the noxious alien plant prickly Florida blackberry and a risk of extinction from naturally occurring events and/or reduced reproductive vigor, due to the small number of extant individuals in the only known population, are serious threats to *Schiedea helleri* (HPCC 1993g). Pigs

have not yet been reported from this drainage, but pose a potential threat since they are found in nearby areas (M. Bruegmann, *in litt.*, 1994).

Robert Hobdy collected a specimen of *Schiedea membranacea* on Kauai in 1969. Harold St. John (1972) later described and named the taxon. The specific epithet refers to the membranous texture of the leaves.

Schiedea membranacea, a member of the pink family, is a perennial herb. The unbranched, fleshy stems rise upwards from near the base and are somewhat sprawling. They are 0.5 to 1 m (1.6 to 3.3 ft) long with internodes 6 to 12 cm (2.4 to 4.7 in) long. During dry seasons, the plant dies back to a woody, short stem at or beneath the ground surface. The oppositely arranged leaves, 13 to 20 cm (5 to 8 in) long and 5 to 8 cm (2 to 3.2 in) wide, are broadly elliptic to egg-shaped, generally thin, have five to seven longitudinal veins, and are sparsely covered with short, fine hairs. The perfect flowers have no petals, are numerous, and occur in large branched clusters. The inflorescences are about 25 to 27 cm (10 to 10.6 in) long. The purple, lance-shaped sepals are about 2 mm (0.08 in) long and have thin, dry, membranous margins. The flowers contain three to five styles and probably ten stamens. The capsular fruits, 2.5 to 3 mm (0.1 to 0.12 in) long, are purple at the apex. This species differs from others of the genus that grow on Kauai by having five- to seven-nerved leaves and an herbaceous habit (Wagner *et al.* 1990).

Schiedea membranacea is known from six current populations on the western side of the island of Kauai: Mahanaloa-Kuia, Paaiki, Kalalau, Nualolo, Wainiha and Waialae valleys on State (including Kuia NAR and Na Pali Coast State Park) and privately owned land (HHP 1994p1 to 1994p3; Wood and Perlman 1993a; S. Perlman and K. Wood, pers. comm., 1994). This species is not known to have occurred at any other locations. Although the number of plants of this species remaining in Paaiki Valley is not known, about 200 to 250 individuals are known in the other five populations (HHP 1994p1 to 1994p3; S. Perlman and K. Wood, pers. comm., 1994). This species is typically found on cliffs and cliff bases in a wide variety of mesic to wet habitats between 520 and 1,160 m (1,700 and 3,800 ft) elevation. The vegetation ranges from open to closed lowland to montane shrubland to forest communities with either a variety of canopy and understory species or dominated by kukui, mamaki, or 'ohi'a (HHP 1994p1 to 1994p3; HPCC 1990d1 to 1990d3, 1991h, 1993h; S. Perlman, pers. comm., 1994).

Habitat degradation by feral ungulates (mule deer, goats, and pigs); competition with the alien plant species daisy fleabane. lantana, prickly Florida blackberry, thimbleberry, strawberry guava, *Ageratine adenophora* (Maui pamakani), *A. riparia* (Hamakua pamakani), and banana poka; and landslides are the primary threats to *schiedea membranacea* (CPC 1990; HPCC 1990d1 to 1990d3, 1991h, 1993h; Wood and Perlman 1993a; M. Breugmann, *in litt.*, 1994; S. Perlman, pers. comm., 1994).

Mann and Brigham first collected a specimen of *Schiedea stellarioides* in the mountains of Kauai between 1864 and 1865. Benedict Pierre Georges Hochreutiner (1925) and E.E. Sherff (1943, 1945, 1954) published several varieties of this species, characterized only by slight differences in leaf shape and size, which are not recognized in the current treatment of the family (Wagner *et al.* 1990).

Schiedea stellarioides, a member of the pink family, is a slightly erect to prostrate subshrub 0.3 to 0.6 m (1 to 2 ft) tall with branched stems and internodes generally 3.5 to 6.5 cm (1.4 to 2.5 in) long. The opposite leaves are very slender to oblong-elliptic, 2.7 to 8.2 cm (1.1 to 3.2 in) long. 0.2 to 1.3 cm (0.1 to 0.5 in) wide, and one-veined. The perfect flowers lack petals and occur in open branched clusters. The inflorescence ranges from 15 to 32 cm (6 to 12.6 in) long. The flower stalks are 7 to 10 mm (0.28 to 0.4 in) long and the narrowly egg-shaped sepals are 2.9 to 3.3 mm (0.11 to 0.13 in) long. The flowers contain ten stamens, three styles, and a two-lobed nectary. The capsular fruits are 2.2 to 3.4 mm (0.09 to 0.13 in) long and contain tiny, dark brown, circular to kidney-shaped, slightly wrinkled seeds. This species is distinguished from others of the genus that grow on Kauai by the number of veins in the leaves, shape of the leaves, presence of a leaf stalk, length of the flower cluster, and shape of the seeds (Wagner *et al.* 1990).

Historically, *Schiedea stellarioides* was known from the sea cliffs of Hanakapiai Beach, Kaholuamano-Opaewela region, the ridge between Waialaw and Nawaimaka valleys, and Haupu Range on the island of Kauai (HHP 1994q1 to 1994q3). This species is now known only from the ridge between Waialea and Nawaimaka valleys on State land, just 0.8 km (0.5 mi) northwest of the Kaholuamano-Opaewela region (HHP 1994q4). This population of approximately 500 to 1,000 individuals is found on steep slopes in a closed koa-'ohi'a a lowland to montane mesic forest between 610 and 1,120 m (2,000 and 3,680 ft) elevation (HHP 1994q4, HPCC 1993i). The plants are scattered in an approximately 2-km (1.25-mi) by 0.3-km (0.2-mi) area. Associated plant species include 'a'ali'i, alani, 'uki'uki, *Bidens cosmoides* (po'ola nui), *Mariscus* sp., and *Styphelia tameiameiae* (pukiawe) (HHP 1994q4).

The primary threats to this species include habitat degradation by feral ungulates (pigs and goats), direct destruction of plants by goats, competition with the alien plants molasses grass and prickly Florida blackberry, and a risk of extinction of the one remaining population from naturally occurring events (HPCC 1993i; S. Perlman, pers. comm., 1994).

Charles Noyes Forbes collected a specimen of *Viola kauaensis* var. *wahiawaensis* on Kauai in 1909. In 1920, he described the variety, naming it for Wahiawa Bog where it was first collected.

Viola kauaensis var. *wahiawaensis*, a member of the violet family (Violaceae), is a perennial herb with upward curving or weakly rising, hairless, lateral stems about 10 to 50 cm (4 to 20 in) long. The kidney- to heart-shaped leaves are usually 2 to 5 cm (0.8 to 2 in) long and 3.5 to 6 cm (1.4 to 2.4 in) wide, and widely spaced. The toothed leaf blades are unlobed or rarely three-lobed, hairless or covered with a few minute hairs, with a broadly wedge-shaped base. The solitary flowers are borne in the leaf axils. Two types of flowers are present. One is self-pollinating and does not open, while the other opens and requires cross-pollination. The flowers that open have hairless petals which are white on the upper surface and purple or blue to white on the lower surface. These petals are narrowly spatula-shaped, the upper petals measuring about 15 to 19 mm (0.6 to 0.7 in) long, the lateral ones about 18 to 23 mm (0.7 to 0.9 in) long, and the lower ones about 18 to 23 mm (0.7 to 1 in) long. The non-opening flowers usually occur on short lateral stems. Their greenish petals are hairless, the upper ones being three-lobed and about 1 to 1.6 mm (0.04 to 0.06 in) long. The fruit is a deeply lobed capsule 8 to 13 mm (0.3 to 0.5 in) long. Two varieties of this species are recognized, both occurring on Kauai: var. *kauaensis* and var. *wahiawaensis*. Variety *wahiawaensis* is distinguished by having broadly wedge-shaped leaf bases, whereas var. *kauaensis* has heart-shaped to truncate leaf bases. The species is distinguished from others of the genus by its non-woody habit, widely spaced leaves, and by having

two types of flowers: conspicuous, open flowers and smaller, unopened flowers (Wagner *et al.* 1990).

Viola kauaensis var. *wahiawaensis* is known only from the Wahiawa Mountains of Kauai on privately owned land (HHP 1994r, Lorence and Flynn 1991). This taxon is not known to have occurred beyond its current range. Fewer than 100 individuals are known to remain in Kanaele Swamp (often referred to as Wahiawa Bog), an open bog surrounded by low scrub of 'ohi'a,uluhe, and 'ohi'a ha at about 640 m (2,100 ft) elevation. Another eight plants are on a nearby ridge between Mount Kapalaoa and Mount Kahili in wet shrubland dominated by uluhe-*Diplopterygium pinnatum* ground cover, with scattered 'ohi'a and *Syzygium* sp., at about 865 m (2,840 ft) elevation (HHP 1994r; Lorence and Flynn 1991; K. Wood, pers. comm., 1994).

The primary threats to *Viola kauaiensis* var. *wahiawaensis* are a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals, habitat degradation through the rooting activities of feral pigs, and competition with alien plants such as *Juncus planifolius* and *Pterolepis glomerata* (HHP 1994r; Lorence and Flynn 1991; K. Wood. pers. comm., 1994).

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Endangered Species Act (16 U.S.C. 1533), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Hibiscus waimeae* ssp. *hannerae* (as *H. waimeae*), *Kokia kauaiensis*, *Myrsine linearifolia*, (as *Myrsine linearifolia* var. *linearifolia*), *Phyllostegia knudsenii*, and *Viola kauaensis* var. *wahiawaensis* were considered to be endangered. *Delissea rivularis* and *Schiedea membranacea* were considered to be threatened. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including all of the above taxa considered to be endangered. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, Federal Register publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, Federal Register publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice in the Federal Register (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), February 21, 1990 (55 FR 6183), and September 30, 1993 (58 FR 51144). Fourteen of the species in this proposal (including synonymous taxa) have at one time or another been considered either Category 1 or Category 2 candidates for Federal listing. Category 1 species are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals but for which listing proposals have not been published because they are precluded by other listing activities. Category 2 species are those for which listing as endangered or threatened is possibly appropriate, but for which sufficient data on biological vulnerability and threats are not currently available. *Schiedea membranacea* and *Kokia kauaiensis* were considered Category 2 species in all notices of review. In the 1980 and 1985 notices, *Myrsine linearifolia* (as *M. linearifolia* var. *linearifolia*), *Phyllostegia knudsenii*, and *Viola kauaensis* var. *wahiawaensis* were considered Category 1 species. In the 1990 and 1993 notices, *Myrsine linearifolia* and *Viola kauaensis* var. *wahiawaensis* were considered Category 2 status. *Phyllostegia knudsenii* was considered Category 3A in the 1990 notice. Category 3A species are those for which the Service has persuasive evidence of extinction. *Delissea rivularis* was considered a Category 2 species in the 1980 and 1985 notices, but was believed to be extinct and considered Category 3A in the 1990 notice. In the 1985 notice, *Alsinidendron viscosum*, *Schiedea helleri*, and *Schiedea stellarioides* were considered Category 1*, and were moved to Category 3A in the 1990 notice. Category 1* species are those which are possibly extinct. *Cyanea recta* and *Phyllostegia wawrana* were considered Category 3A species in the 1990 notice. Because new information indicates their current existence and provides support for listing, the above seven taxa have been included in this proposed rule. *Hibiscus waimeae* ssp. *hannerae* (as *H. waimeae*) was considered Category 3C in the 1980 and 1985 notices. Category 3C species are those that have proven to be more abundant or widespread than previously believed and/or are not subject to any identifiable threat. In the 1990 and 1993 notices, this subspecies was considered a Category 2 species, along with *Pritchardia napaliensis* and *Pritchardia viscosa*. *Alsinidendron lychonoides* and *Cyrtandra cyaneoides* were considered Category 2 species in the 1993 notice. Since the last notice, new information suggests that the numbers and distribution are sufficiently restricted and threats sufficient for the above nine Category 2 species, as well as *Cyanea remyi* and the recently discovered *Hibiscadelphus woodii*, to warrant listing.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions that present substantial information indicating that the petitioned action may be warranted within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these taxa was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2484). Such a finding requires the Service to consider the petition as having been resubmitted, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed annually in October of 1984 through 1993. Publication of the present proposal constitutes the final such finding for these taxa.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be

determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). The threats facing these 19 taxa are summarized in Table 1.

TABLE 1.—SUMMARY OF THREATS

Species	Alien mammals				Alien plants	Sub-strate loss/hur-ricane	Human impacts	Limited numbers*	Other
	Deer	Goats	Pigs	Rats					
Alsinidendron lychnoides			X		X	X	X	X1,2	
Alsinidendron viscosum		X	X		X	X	P	X1,3	
Cyanea recta		X	X	X	X	X	P		
Cyanea remyi		X	X	X	X			X1	Slugs.
Crytandra cyaneoides			P	P	X	X		X1	
Delissea rivularis			X	P	X	X		X1,3	
Hibiscadelphus woodii		X	X		X	X		X1,2	White-eye.
Hibiscus waimeae ssp. *hannerae*			X		X	X		X1	
Kokia Kauaiensis	X	X		X	X	X		X1	
Labordia tininfolia var. *wahiawaensis*			X		X	X	X	X1,3	
Myrsine linearifolia		X	X		X				
Phyllostegia knudsenii		X	X		X			X1,2	
Phyllostegia wawrana			X		X			X1,3	
Pritchardia napaliensis		X	X	X	X			X1,3	
Pritchardia viscosa				X	X	X	X	X1,2	
Schiedea helleri			P		X		P	X1,3	
Schiedea membranacea	X	X	X		X	X			
Schiedea stellarioides		X	X		X			X1	
Viola kauaensis var. *wahiawaensis*			X		X			X1,3	

Key
X = Immediate and significant threat.
P = Potential threat.
* = No more than 100 individuals and/or no more than 5 populations.
1 = No more than 5 populations.
2 = No more than 10 individuals.
3 = No more than 100 individuals.

These factors and their application to *Alsinidendron lychnoides* (Hillebr.) Sherff (kuawawaenohu), *Alsinidendron viscosum* (H. Mann) Sherff (NCN), *Cyanea recta* (Wawra) Hillebr. (haha), *Cyanea remyi* Rock (haha), *Cyrtandra cyaneoides* Rock (mapele), *Delissea rivularis* (Rock) F. Wimmer ('oha), *Hibiscadelphus woodii* Lorence and Wagner (hau kuahiwi), *Hibiscus waimeae* ssp. *hannerae* A. Heller (koki'o ke'oke'o), *Kokia kauaiensis* (Rock) Degener & Duvel (koki'o), *Labordia tinifolia* var. *wahiawaensis* St. John (kamakahala), *Myrsine linearifolia* Hosaka (kolea), *Phyllostegia knudsenii* Hillebr. (NCN), *Phyllostegia wawrana* Sherff (NCN), *Pritchardia napaliensis* St. John (loulu). *Pritchardia viscosa* Rock (loulu), *Schiedea helleri* Sherff (NCN), *Schiedea membranacea* St. John (NCN), *Schiedea stellarioides* H. Mann (laulihilihi), *Viola kauaensis* var. *wahiawaensis* C. Forbes (nani wai'ale'ale) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitats of the plants included in this proposed rule have undergone extreme alteration because of past and present land management practices, including deliberate alien animal and plant introductions, agricultural development, and recreational use. Natural disturbances such as storms and landslides also destroy habitat and can have a significant effect on small populations of plants. Destruction and modification of habitat by introduced animals and competition with alien plants are the primary threats facing the 19 taxa being proposed (See Table 1).

When Polynesian immigrants settled in the Hawaiian Islands, they brought with them water-control and slash-and-burn systems of agriculture and encouraged plants that they introduced to grow in valleys. Their use of the land resulted in erosion, changes in the composition of native communities, and a reduction of biodiversity (Cuddihy and Stone 1990, HHP 1990b, Kirch 1982, Wagner *et al.* 1985). Hawaiians settled and altered many areas of Kauai including areas in which some of the proposed taxa grew (Department of Land and Natural Resources (DLNR) 1981a; HHP 1990a, 1990b). Many forested slopes were denuded in the mid-1800s to supply firewood to whaling ships, plantations, and island residents. Native plants were undoubtedly affected by this practice. Also, sandalwood and tree fern harvesting occurred in many areas, changing forest composition and affecting native species (Cuddihy and Stone 1990).

Beginning with Captain James Cook in 1792, early European explorers introduced livestock, which became feral, increased in number and range, and caused significant changes to the natural environment of Hawaii. The 1848 provision for land sales to individuals allowed large-scale agricultural and ranching ventures to begin. So much land was cleared for these enterprises that climatic conditions began to change, and the amount and distribution of rainfall were altered (Wenkam 1969). Plantation owners supported reforestation programs which resulted in many alien trees being introduced in the hope that the watershed could be conserved. Beginning in the 1920s, water collection and diversion systems were constructed in upland areas to irrigate lowland fields, and this undoubtedly destroyed individuals and populations of native plants. The irrigation system also opened new routes for the invasion of alien plants and animals into native forests (Cuddihy and Stone 1990, Culliney 1988, Wagner *et al.* 1990, Wenkam 1969).

Past and present activities of introduced alien mammals are the primary factor altering and degrading vegetation and habitats on Kauai. Feral ungulates trample and eat native vegetation and disturb and open areas. This causes erosion and allows the entry of alien plant species (Cuddihy and Stone 1990, Wagner *et al.* 1990). Sixteen taxa in this proposal are directly threatened by habitat degradation resulting from introduced ungulates: 15 taxa are threatened by pigs, 10 by goats, and 2 by deer.

The pig (*Sus scrofa*) is originally native to Europe, northern Africa, Asia Minor, and Asia. European pigs, introduced to Hawaii by Captain James Cook in 1778, became feral and invaded forested areas, especially wet and mesic forests and dry areas at high elevations. They are currently present on Kauai and four other islands, and inhabit rain forests and grasslands. Pig hunting is allowed on all islands either year-round or during certain months, depending on the area (DLNR n.d.-a, n.d.-b, n.d.-c, 1990). While rooting in the ground in search of the invertebrates and plant material they eat, feral pigs disturb and destroy vegetative cover, trample plants and seedlings, and threaten forest regeneration by damaging seeds and seedlings. They disturb soil and cause erosion, especially on slopes. Alien plant seeds are dispersed on their hooves and coats as well as through their digestive tracts, and the disturbed soil is fertilized by their feces, helping these plants to establish. Pigs are a major vector in the spread of banana poka and strawberry guava, and enhance populations of common guava. Hamakua pamakani, Maui pamakani, and prickly Florida blackberry, all of which threaten one or more of the proposed taxa (Cuddihy and Stone 1990, Medeiros *et al.* 1986, Scott *et al.* 1986, Smith 1985, Stone 1985, Tomich 1986, Wagner *et al.* 1990).

Feral pigs pose an immediate threat to 1 or more populations of 15 of the proposed taxa. All known populations of the following taxa are threatened by feral pigs: *Alsinidendron viscosum*, *Delissea rivularis*, *Hibiscadelphus woodii*, *Hibiscus waimeae* ssp. *hannerae*, *Labordia tinifolia* var. *wahiawaensis*, *Phyllostegia knudsenii*, *Phyllostegia wawrana*, and *Schiedea stellarioides*. Populations of other proposed taxa threatened by feral pigs are: the Alakai Wilderness and Keanapuka populations of *Alsinidendron lychnoides*; the Makaleha Mountains population of *Cyanea recta*; the Makaleha Mountains and Wahiawa Mountains populations of *Cyanea remyi*; the Wahiawa Mountains population of *Myrsine linearifolia*; the Kalalau Valley population of *Pritchardia napaliensis*; three of the six populations of *Schiedea membranacea* at Kalalau Valley, Nualolo, and Waialae Valley; and the Wahiawa Mountains population of *Viola kauaensis* var. *wahiawaensis*. Pigs also constitute a potential threat to the only known population of *Schiedea helleri* off Mohihi Stream, the Pohakuao and Kalalau cliffs populations of *Myrsine linearifolia*, and the Wainiha Valley populations of *Cyanea recta* and *Cyrtandra cyaneoides*. Habitat degradation reported to occur in areas near these populations, if not controlled, may become a problem for these populations (HHP 1990a, 1992, 1994b7, 1994i1, 1994i3; HPCC 1990a, 1991a2, 1991d, 1991f1, 1991f3, 1991f4, 1992a, 1993a1, 1993c1, 1993e, 1993j, 1993k1, 1993k2; Lorence and Flynn 1991, 1993b; Wood and Perlman 1993a; M. Bruegmann, *in litt.*, 1994; T. Flynn, J. Lau. D. Lorence, S. Perlman, and K. Wood, pers. comms., 1994).

The goat (*Capra hircus*), a species originally native to the Middle East and India, was successfully introduced to the Hawaiian Islands in 1792. Currently populations exist on Kauai and four other islands. On Kauai, feral goats have been present in drier, more rugged areas since the 1820s and they still occur in Waimea Canyon and along the Na Pali Coast, as well as the drier perimeter of Alakai Swamp and even in its wetter areas during periods with low rainfall. Goats are managed in Hawaii as a game animal, but many herds populate inaccessible areas where hunting has little effect on their numbers (HHP 1990c). Goat hunting is allowed year-round or during certain months, depending on the are (DLNR n.d.–a, n.d.–b, n.d.–c, 1990). Goats browse on introduced grasses and native plants, especially in drier and more open ecosystems. Feral goats eat native vegetation, trample roots and seedlings, cause erosion, and promote the invasion of alien plants. They are able to forage in extremely rugged terrain and have a high reproductive capacity (Clarke and Cuddihy 1980. Cuddihy and Stone 1990, Culliney 1988, Scott *et al.* 1986, Tomich 1986, van Riper and van Riper 1982).

Although many of the proposed plants survive on steep cliffs inaccessible to goats, their original range was probably much larger, and they are vulnerable to the long-term, indirect effects of goats, such as large-scale erosion (Corn *et al.* 1979). The habitats of many of the 19 proposed plants were damaged in the past by goats, and these effects are still apparent in the form of alien vegetation and erosion. One or more populations of ten of the proposed taxa are currently threatened by direct damage from feral goats, such as trampling of plants and seedlings and erosion of substrate (Clarke and Cuddihy 1980, Culliney 1988, Scott *et al.* 1986, van Riper and van Riper 1982).

The only known populations of *Hibiscadelphus woodii*, *Phyllostegia knudsenii*, and *Schiedea stellarioides* are threatened by goats. Populations of other proposed taxa threatened by goats include: the Waialae and Nawaimaka Valley populations of *Alsinidendron viscosum*, the Makaleha Mountains populations of *Cyanea recta* and *Cyanea remyi*, four of the five populations (Kalalau Valley, Koaie Stream, Mahanaloa Valley, and Pohakuao Valley) of *Kokia kauaiensis*, the Kalalau cliffs and Namolokama Summit plateau populations of *Myrsine linearifolia*, the largest population of *Pritchardia napaliensis* at Hoolulu Valley, and three of the six populations (Kalalau Valley, Mahanaloa-Kuia Valley, and Waialae Valley) of *Schiedea membranacea* (HHP 1994j5, 1994j6; HPCC 1990b3, 1990c2, 1991f5, 1991h, 1993a1, 1993a2, 1993f, 1993i; Lorence and Flynn 1993b; Wood and Perlman 1993a; J. Lau, D. Lorence, S. Perlman, K. Wood, pers. comms., 1994).

Individuals of mule deer (*Odocoileus hemionus*), native from western North America to central Mexico, were brought to Kauai from Oregon in the 1960s for game hunting and have not been introduced to any other Hawaiian island. Mule deer were introduced, in part, to provide another animal for hunting, since the State had planned to reduce the number of goats on Kauai because they were so destructive to the landscape (Kramer 1971). About 400 animals are known in and near Waimea Canyon, with some invasion into Alakai Swamp in drier periods. Mule deer, legally hunted during only one month each year, trample native vegetation and cause erosion by creating trails and removing vegetation (Cuddihy and Stone 1990, DLNR 1985, Tomich 1986). They are a threat to the Mahanaloa-Kuia Valley and Nualolo populations of *Schiedea membranacea* and the Paaiki and Kuia Valley populations of *Kokia kauaiensis* (M. Bruegmann, *in litt.*, 1994; S. Perlman, pers. comm., 1994).

Substrate loss due to agriculture, grazing animals (especially goats), hikers, and vegetation change results in habitat degradation and loss. This particularly affects plant populations on cliffs or steep slopes, such as the Koaie Stream population of *Kokia kauaiensis* (HHP 1994j6).

B. *Overutilization for commercial, recreational, scientific, or educational*

purposes. Unrestricted collecting for scientific or horticultural purposes and excessive visits by individuals interested in seeing rare plants are potential threats to all of the proposed taxa, but especially to *Hibiscadelphus woodii, Phyllostegia knudsenii,* and *Pritchardia viscosa,* each of which has only one or two populations and fewer than five individuals. Collection of whole plants or reproductive parts of any of these three species could adversely impact the gene pool and threaten the survival of the species. Some taxa, such as *Alsinidendron lychnoides, Alsinidendron viscosum, Cyanea recta, Labordia tinifolia* var. *wahiawaensis, Pritchardia viscosa,* and *Schiedea helleri* have populations close to trails or roads and are thus easily accessible to collectors and, therefore, are potentially threatened by overcollection (Flynn and Lorence 1992; HHP 1994b1, 1994d8, 1994h1, 1994n1; HPCC 1991e2, 1993g; T. Flynn, pers. comm., 1994). At least one of the three remaining *Pritchardia viscosa* individuals has been damaged by spiked boots used to scale those trees and collect seeds (L. Mehrhoff, *in litt.*, 1994).

Many of the proposed plants occur in recreational areas used for hiking, camping, and hunting. Tourism is a growing industry in Hawaii, and as more people seek recreational activities, they are more likely to come into contact with rare native plants. People can transport or introduce alien plants through seeds on their footwear, and they can cause erosion, trample plants, and start fires (Corn *et al.* 1979). *Alsinidendron lychnoides* and *Labordia tinifolia* var. *wahiawaensis* have populations near trails and are considered to be immediately threatened by recreational use of the areas in which they occur (HHP 1994b1; HPCC 1991e2, 1992a).

C. *Disease or predation.* Browsing damage by goats has been verified for *Cyanea recta* and *Cyanea remyi* (Lorence and Flynn 1993b). Goats have directly destroyed individuals of *Schiedea stellarioides* (S. Perlman, pers. comm., 1994). The remaining proposed species are not known to be unpalatable to goats or deer and, therefore, predation is a probable threat where those animals have been reported, potentially affecting eight additional proposed taxa: *Alsinidendron viscosum, Hibiscadelphus woodii, Kokia kauaiensis, Myrsine linearifolia, Phyllostegia knudsenii, Pritchardia napaliensis, Schiedea membranacea,* and *Schiedea stellarioides* (HHP 1994J5, 1994j6; HPCC 1990b3, 1990c2, 1991f5, 1991h, 1993a1, 1993f, 1993i, 1993j; Wood and Perlman 1993a; J. Lau, D. Lorence, S. Perlman, K. Wood, pers. comms., 1994). The lack of seedlings of many of the taxa and the occurrence of individuals of several taxa only on inaccessible cliffs may indicate that browsing animals, especially goats, have restricted the distribution of these plants (HPCC 1991c; Wood and Perlman 1993a; D. Lorence and K. Wood, pers. comms., 1994).

Of the four species of rodents that have been introduced to the Hawaiian Islands, the species with the greatest impact on the native flora and fauna is probably *Rattus rattus* (black or roof rat), which now occurs on all the main Hawaiian Islands around human habitations, in cultivated fields, and in dry to wet forests. Black rats and to a lesser extent *Mus musculus* (house mouse), *Rattus exulans* (Polynesian rat), and *R. norvegicus* (Norway rat) eat the fruits of some native plants, especially those with large, fleshy fruits. Many native Hawaiian plants produce their fruit over an extended period of time, and this produces a prolonged food supply which supports rodent populations. Black rats strip bark from some native plants, and their predation of plants in the bellflower and African violet families, which have fleshy stems and fruits, has been confirmed (Cuddihy and Stone 1990; Tomich 1986; J. Lau, pers. comm., 1994). Rat damage to the stems of species of *Cyanea* has been reported in the Makaleha Mountains, Waioli Valley, and at the base of Mount Waialeale, and poses a threat to the populations of *Cyanea recta* and *Cyanea remyi* that occur there (HPCC 1991a1; Lorence and Flynn 1993a; L. Mehrhoff, *in litt.*, 1994; S. Perlman, pers. comm., 1994). It is probable that rats eat the fruits of related species such as *Cyrtandra cyaneoides* and *Delissea rivularis* (C. Russell, pers. comm., 1994). Rats threaten the only known population of *Pritchardia viscosa*, two of three populations of *Pritchardia napaliensis*, and one population of *Kokia kauaiensis* by predation of their flowers or fruit (HPCC 1990b1, 1990c2; S. Perlman and K. Wood, pers. comms., 1994).

Little is known about the predation of certain rare Hawaiian plants by slugs. Indiscriminate predation by slugs on plant parts of *Cyanea remyi* has been observed by field botanists (L. Mehrhoff, *in litt.*, 1994; S. Perlman, pers. comm., 1994). The effect of slugs on the decline of this and related species is unclear, although slugs may pose a threat because they feed on the stems and eat the fruit, reducing the vigor of the plants and limiting regeneration.

Japanese white-eye (*Zosterops japonicus*) was introduced to the island of Oahu from eastern Asia in 1930, and has since spread to all of the main Hawaiian Islands. It is currently the most abundant bird in Hawaii (Pratt *et al.* 1989). Japanese white-eye has been observed piercing the corollas of *Hibiscadelphus woodii,* presumably to rob nectar (Lorence and Wagner 1995).

D. *The inadequacy of existing regulatory mechanisms.* Hawaii's Endangered Species Act states—''Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the [Federal] Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *'' (Hawaii Revised Statutes (HRS), sect. 195D–4(a)). Therefore, Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking of listed plants in the State and encourages conservation by State agencies (HRS, sect. 195D–4 and 5).

None of the 19 proposed taxa are listed by the State. Eight of the proposed taxa have populations on privately owned land. *Labordia tinifolia* var. *wahiawaensis* and *Viola kauaensis* var. *wahiawaensis* are found exclusively on private land. At least 1 population of each of the other 17 taxa occurs on State land. Fourteen of the proposed taxa have one or more populations in State parks, NARs, or the Alakai Wilderness Preserve, which have rules and regulations for the protection of resources (DLNR 1981b; HRS, sects. 183D–4, 184–5, 195–5, and 195–8). However, the regulations are difficult to enforce because of limited personnel.

One or more populations of each of the 19 proposed taxa is located on land classified within conservation districts and owned by the State of Hawaii or private companies or individuals. Regardless of the owner, lands in these districts, among other purposes, are regarded as necessary for the protection of endemic biological resources and the maintenance or enhancement of the conservation of natural resources (HRS, sect. 205–2). Some uses, such as maintaining animals for hunting, are based on policy decisions, while others, such as preservation of endangered species, are mandated by State laws. Requests for amendments to district boundaries or variances within existing classifications can be made by government agencies and private landowners (HRS, sect. 205–4). Before decisions about these requests are made, the impact of the proposed reclassification on ''preservation or maintenance of important natural systems or habitat'' (HRS, sects. 205–4, 205–17) as well as the maintenance of

natural resources is required to be taken into account (HRS, sects. 205–2, 205–4). Before any proposed land use that will occur on State land, is funded in part or whole by county or State funds, or will occur within land classified as conservation district, an environmental assessment is required to determine whether or not the environment will be significantly affected (HRS, chapt. 343). If it is found that an action will have a significant effect, preparation of a full Environmental Impact Statement is required. Hawaii environmental policy, and thus approval of land use, is required by law to safeguard ''* * * the State's unique natural environmental characteristics * * *'' (HRS, sect. 344–3(1)) and includes guidelines to ''protect endangered species of individual plants and animals * * *'' (HRS, sect. 344–4(3)(A)). Federal listing, because it automatically invokes State listing, would also implement these other State regulations protecting the plans.

State laws relating to the conservation of biological resources allow for the acquisition of land as well as the development and implementation of programs concerning the conservation of biological resources (HRS, sect. 195D–5(a)). The State also may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, sect. 195D–5(c)). If listing were to occur, funds for these activities could be made available under section 6 of the Act (State Cooperative Agreements). The Hawaii DLNR is mandated to initiate changes in conservation district boundaries to include ''the habitat of rare native species of flora and fauna within the conservation district'' (HRS, sect. 195D–5.1). Twelve of the proposed taxa are threatened by seven plants considered by the State of Hawaii to be noxious weeds. The State has provisions and funding available for eradication and control of noxious weeds on State and private land in conservation districts and other areas (HRS, chapt. 152; Hawaii Department of Agriculture (DOA) 1981, 1991).

Despite the existence of various State laws and regulations that protect Hawaii's native plants, their enforcement is difficult due to limited funding and personnel. Listing of these 19 plant taxa would trigger State listing under Hawaii's Endangered Species Act and supplement the protection available under other State laws. The Federal Endangered Species Act would offer additional protection to these 19 taxa. For example, for species listed as endangered, it would be a violation of the Act for any person to remove, cut, dig up, damage, or destroy any such plant in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

E. *Other natural or manmand factors affecting its continued existence.* The small numbers of populations and invididuals of most of these taxa increase the potential for extinction from naturally occuring events. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known extant population. Seven of the proposed taxa, *Delissea rivularis, Hibiscadelphus woodii, Laboridia tinifolia* var. *wahiawaensis. Phyllostegia knudsenii, Pritchardia viscosa, Schiedea helleri,* and *Schiedea stellarioides,* are known only from a single population. Nine other proposed taxa are known from only two to five populations (See Table 1). Eleven of the proposed taxa are estimated to number no more than 100 known individuals (See Table 1). Four of these taxa, *Alsinidendron lychnoides, Hibiscadelphus, woodii, Phyllostegia knudsenii,* and *Pritchardia viscosa,* number fewer than 10 individuals.

One or more species of almost 30 introduced plants directly threaten all 19 of the proposed taxa. The original native flora of Hawaii consisted of about 1,000 species, 89 percent of which were endemic. Of the total native and naturalized Hawaiian flora of 1,817 species, 47 percent were introduced from other parts of the world and nearly 100 species have become pests (Smith 1985, Wagner *et al.* 1990). Naturalized, introduced species compete with native plants for space, light, water, and nutrients (Cuddihy and Stone 1990). Some of these species were brought to Hawaii by various groups of people, including the Polynesian immigrants, for food or cultural reasons. Plantation owners, alarmed at the reduction of water resources for their crops caused by the destruction of native forest cover by grazing feral animals, supported the introduction of a alien tree species for reforestation. Ranchers intentionally introduced pasture grasses and other species for agriculture, and sometimes inadvertently introduced weed seeds as well. Other plants were brought to Hawaii for their potential horiticultural value (Cuddihy and Stone 1990, Scott *et al.* 1996, Wenkam 1969).

Two subshrubs in the genus *Ageratina* gave naturalized in the Hawaiian Islands and are classified as noxious weeds by the State (DOA 1981). *Ageratina adenophora* (Maui pamakani), naturalized in dry areas to wet forest on Kauai and also classifed as a noxious weed by the Federal government (7 CFR 360), threatens the Kalalau Valley population of *Schiedea membranacea* (Wood and Perlman 1993a). *Ageratina riparia* Hamakua pamakani), naturalized in disturbed, dry to mesic areas and wet forests on Kauai, is a threat to the same population of *Schiedea membranacea* (Wood and Perlman 1993a). *Belchnum occidentale* (blechnum fern), probably accidentally introduced from tropical America, has naturalized in mesic forests on most of the main Hawaiian Islands (Degener 1932; J. Lau, pers. comm., 1994). Blechnum fern poses a threat to the Waioli Valley population of *Cyanea recta* (Lorence and Flynn 1993a; T. Flynn, pers. comm., 1994).

Classified as a noxious weed by the State of Hawaii, *Clidemia hirta* (Koster's curse) is an aggressive shrub found in mesic to wet forests on at least five islands in Hawaii (Almeda 1990, DOA 1981). It is a threat to the Waioli Valley populations of *Cyanea recta* and the Limahuli Valley population of *Hibiscus waimeae* ssp. *hannerae* (HHP 1992, 1994i1; HPCC 1991d; Lorence and Flynn 1993a, 1993b; J. Lau and K. Wood, pers. comms., 1994). *Cordyline fruticosa* (ti) is a shrub brought to Hawaii by the Polynesian immigrants. Its original range is unknown, but in Hawaii it is now naturalized on all the main islands except Kahoolawe in *Pandanus tectorius* (hala) forest and mesic valleys and forests, sometimes forming dense stands (Wagner *et al.* 1990; J. Lau, pers. comm., 1994). The Hoolulu Valley population of *Pritchardia napaliensis* may compete for space with ti (HHP 1994m1). *Crassocephalum crepidioides,* an annual herb native to tropical Africa, is naturalized in dry areas to wet forest on Kauai and four other islands. This weed has been considered a pest in Hawaii since 1966, and is a threat to the Waioli Valley population of *Cyanea recta* (Haselwood and Motter 1983; Lorence and Flynn 1993a; K. Wood, pers. comm., 1994). *Deparia petersenii* is a perennial fern capable of forming a thick groundcover (J. Lau, pers. comm., 1994). The Makaleha Mountains populations of *Cyanea recta* and *Cyrtandra cyaneoides* compete for space with this fern (Lorence and Flynn 1993b). *Drymaria cordata* (pipili), a pantropical annual herb, is naturalized in shaded, moist sites on Kauai and four other islands (Wagner *et al.* 1990). Pipili threatens the Makaleha Mountains population of *Cyrtandra cyaneoides* and

the only known population of Phyllosteqia knudsenii (HPCC 1993j, Lorence and Flynn 1993b).

Erechtites valerianifolia (fireweed) is an annual herb native from Mexico to Brazil and Argentina. It is naturalized on all of the main Hawaiian Islands except Niihau and Kahoolawe, and is found in disturbed, relative wet areas. This weed threatens the Makaleha Mountains and Waioli Valley populations of *Cyanea recta,* the Makaleha Mountains and Wahiawa Mountains populations of *Cyanea remyi,* and the Makaleha Mountains populations of *Cyrtandra cyaneoides* and *Phyllostegia wawrana* (HPCC 1993k2; Lorence and Flynn 1991. 1993a, 1993b; Wagner *et al.* 1990; K. Wood, pers. comm., 1994). Brought to Hawaii as a cultivated herbaceous plant, *Erigeron Karvinskianus* (daisy fleabane) is naturalized in wetter areas of Kauai and three other islands (Wagner *et al.* 1990). An invasion of daisy fleabane on the Kalalau cliffs threatens *Schiedea membranacea, Myrsine linearifolia,* and the only population of *Hibiscadelphus woodii.* Daisy fleabane also threatens the Alealau population of *Pritchardia napaliensis* and the Honopu Valley population of *Phyllostegia wawrana* (HPCC 1990d1, 1991c, 1993f, 1993k1; Lorence and Wagner 1995; K. Wood, pers. comm., 1994).

Juncus planifolius is a perennial herb native to South America, New Zealand, and Australia and is naturalized in open, disturbed, moist areas in forest edges and bogs (Wagner et al. 1990). Found on Kauai and four other islands, *Juncus planifolius* threatens the population of *Viola kauaensis* var. *wahiawaensis* in the Wahiawa Bog (Lorence and Flynn 1991; K. Wood, pers. comm., 1994). *Kalanchoe pinnata* (air plant) is an herb which occurs on all the main islands except Niihau and Kaholawe, especially in dry to mesic areas (Wagner *et al.* 1990). The Paaiki Valley and Kuia populations of *Kokia kauaiensis,* the only known population of *Phyllostegia knudsenii,* the Pohakuao population of *Myrsine linearifolia,* and the Alealau and Hollulu Valley populations of *Pritchardia napaliensis* are threatened by competition with air plant (HPCC 1991g, 1993j; M. Bruegmann, *in litt.,* 1994; K. Wood, pers. comm., 1994).

Lantana camara (lantana), brought to Hawaii as an ornamental plant, is an aggressive, thicket-forming shrub which can now be found on all of the main islands in mesic forests, dry shrublands, and other dry, disturbed habitats (Wagner *et al.* 1990). One or more populations of each of the following species are threatened by lantana: *Alsinidendron viscosum, Cyanea recta, Hibiscus waimeae* ssp. *hannerae, Kokia kauaiensis, Myrsine linearifolia,* the only known population of *Phyllostegia knudsenii, Pritchardia napaliensis,* and *Schiedea membranacea* (HHP 1990a, 1994i3, 1994j1, 1994j3 to 1994j6, 1994m2, HPCC 1990a, 1990b1, 1990c2, 1991d, 1993a1, 1993j; Lorence and Flynn 1993b; S. Perlman and K. Wood, pers. comms., 1994). *Melastoma candidum* is a member of a genus in which all species have been classified as noxious weeds by the State of Hawaii (DOA 1992). This species is naturalized in mesic to wet areas on *Cyanea recta, Cyanea remyi,* Phyllostegia wawrana (Almeda 1990, HPCC 1993k2, Lorence and Flynn 1993b).

Passiflora mollissima (banana poka), a woody vine, poses a serious problem to mesic forests on Kauai and Hawaii by covering trees, reducing the amount of light that reaches trees as well as understory, and causing damage and death to trees by the weight of the vines. Animals, especially feral pigs, eat the fruit and distribute the seeds (Cuddihy and Stone 1990, Escobar 1990). Banana poka is classified as a noxious weed by the State (DOA 1992) and threatens the Nualolo population of *Schiedea membranacea* and the Honopu Valley population of *Phyllostegia wawrana* (HPCC 1993k1: K. Wood, pers. comm., 1994). *Passiflora liqularis* (sweet granadilla) was first collected in Hawaii in 1909, and has since spread to mesic and wet areas of Kauai, Oahu, Lanai, and Hawaii (Escobar 1990). This taxon threatends *Kokia kauaiensis* (M. Bruegmann, *in litt.,* 1994).

Two small tree species, *Psidium cattleianum* (strawberry guava) and *Psidium quajava* (common guava), were brought to Hawaii and have become widely naturalized on all the main islands, forming dense stands in disturbed areas. Strawberry guava, found in mesic and wet forests, develops into stands in which few other plants grow, physically displacing natural vegetation and greatly affecting Hawaiian plants, many of which are narrowly endemic taxa. Pigs depend on strawberry guava for food and, in turn, disperse the plant's seeds through the forests (Smith 1985, Wagner *et al.* 1990). Strawberry guava is considered to be the greatest weed problem in Hawaiian rain forests and is known to pose a direct threat to all remaining plants of *Pritchardia viscosa,* the Wahiawa Mountains populations of *Cyanea remyi* and *Labordia tinifolia* var. *wahiawaensis,* the Paaiki population of *Kokia kauaiensis,* the Wahiawa Drainage population of *Myrsine linearifolia,* and the Mahanaloa-Kuia population of *Schiedea membrancea* (HPCC 1991f3, 1991f4, 1992c; Lorence and Flynn 1991, 1993b; Smith 1995; M. Bruegmann, *in litt.,* 1994; T. Flynn and S. Perlman, pers. comms., 1994). Common guava invades disturbed sites, forming dense thickets in dry, mesic, and wet forests (Smith 1985, Wagner *et al.* 1990). Common guava threatens the Honolulu Valley population of *Pritchardia napaliensis* (HHP 1994m1, HPCC 1990c2). *Pterolepis glomerata,* an herb or subshrub locally naturalized in mesic to wet disturbed sites on Kauai, Oahu, and Hawaii, threatens the Wahiawa Bog population of *Viola kauaensis* var. *wahiawaensis* (Lorence and Flynn 1991; K. Wood. pers. comm., 1994).

Rubus argutus (prickly Florida blackberry), an aggressive alien species in disturbed mesic to wet forests and subalpine grasslands on Kauai and three other islands, is considered a noxious weed by the State of Hawaii (DOA 1981, Smith 1985, Wagner *et al.* 1990). Prickly Florida blackberry threatens the only known populations of *Schiedea helleri, Schiedea stellarioides,* and *Delissea rivularis,* the Alakai Wilderness and Keanapuka populations of *Alsinidendron lychnoides,* the Waialae-Nawaimaka population of *Alsinidendron viscosum,* the Koaie Stream, and Pohakuao populations of *Myrsine linearifolia,* the Honopu Valley population of *Phyllostegia wawrana,* and the Nualolo population of *Schiedea membranacea* (HHP 1994b4; HPCC 1992a, 1993a1, 1993a2, 1993g, 1993i, 1993k1; J. Lau. S. Perlman, K. Wood, pers. comms., 1994). *Rubus rosifolius* (thimbleberry), native to Asia, is naturalized in disturbed mesic to wet forest on all of the main Hawaiian Islands. This shrub threatens the three largest populations of *Cyanea recta* in Wainiha Valley, Makaleha Mountains, and Waioli Valley; the Wahiawa Mountains an Waioli Valley populations of *Cyanea remyi*; the Makaleha Mountains population of *Cyrtandra cyaneoides, the Limahuli Valley population of Hibiscus waimeae* ssp. *hannerae*; the Mahanaloa-Kuia Valley junction population of *Kokia kauaiensis*; the Limahul-Hanakapiai Ridge population of *Myrsine linearifolia*; the Makaleha Mountains population of *Schiedea membranacea* (HHP 1992, 1994i1, 1994j3, HPCC 1990d2, 1991d, 1991f2, 1992c, 1993c2, 1993k2; Lorence and Flynn 1991, 1993a, 1993b; S. Perlman and K. Wood, pers. comms., 1994).

Triumfetta semitriloba (Sacramento bur) is a subshrub now found on four Hawaiian Islands and considered to be a noxious weed by the State of Hawaii

(DOA 1981, Wagner *et al.* 1990). Sacramento bur threatens the Koaie Stream population of *Kokia kauaiensis* (HPCC 1990b3). *Youngia japonica* (Oriental hawksbeard) is an annual herb native to southeast Asia and now is a common weed in disturbed moist and shaded sites, as well as intact wet forests, on most of the main Hawaiian Islands (Wagner *et al.* 1990). The Waioli Valley population of *Cyanea recta* is threatened by this weed (Lorence and Flynn 1993a).

Several hundred species of grasses have been introduced to the Hawaiian Islands, many for animal forage. Of the approximately 100 grass species that have become naturalized, 3 species threaten 8 of the 19 proposed plant taxa. *Melinis minutiflora* (molasses grass), a perennial grass brought to Hawaii for cattle fodder, is now naturalized in dry to mesic, disturbed areas on most of the main Hawaiian Islands. The mats it forms smother other plants and fuel more intense fires than would normally affect an area (Cuddihy and Stone 1990, O'Connor 1990, Smith 1985). The largest populations of *Alsinidendron viscosum* and *Schiedea stellarioides,* in Waialae-Nawaimaka Valley, are threatened by molasses grass (HPCC 1993a1, 1993a2, 1993i). The perennial grass *Paspalum conjugatum* (Hilo grass), naturalized in moist to wet, disturbed areas on most Hawaiian Islands, produces a dense ground cover, even on poor soil), and threatens the Makaleha Mountains population of *Cyanea recta, Cyanea remyi, Cyrtandra cyaneoides,* the only know population of *Phyllostegia knudsenii,* and the Powerline Road population of *Pritchardia viscosa* (HHP 1992; HPCC 1993j; Lorence and Flynn 1993b; J. Lau and S. Perlman, pers. comms., 1994). *Sacciolepis indica* (Glenwood grass), and annual or perennial grass naturalized on five islands in Hawaii in open, wet areas, threatens the Waioli Valley and Makaleha Mountains populations of *Cyanea recta* (HHP 1992; Lorence and Flynn 1993a, 1993b; J. Lau and K. Wood, pers. comm., 1994).

Erosion, landslides, and rock slides due to natural weathering result in the death of individual plants as well as habitat destruction. This especially affects the continued existence of taxa or populations with limited numbers and/or narrow ranges, such as: the two largest populations of *Cyanea recta,* the Makaleha Mountains and upper Waioli Valley populations of *Cyrtandra cyaneoides,* each of which has only one individual, the only populations of *Delissea rivularis* and *Phyllostegia knudsenii,* the only population of *Hibiscadelphus woodii,* and the largest population of *Schiedea membranacea* (HPCC 1990d2, 1991c, 1993c1, 1993j; Lorence and Flynn 1993a, 1993b; Lorence and Wagner 1995; L. Mehrhoff, *in litt.,* 1994; J. Lau and K. Wood, pers. comms., 1994). This process is often exacerbated by human disturbance and land use practices (See Factor A).

In September 1992, Hurricane 'Iniki struck the Hawaiian Islands and caused extensive damage, especially on the island of Kauai. Many forest trees were destroyed, opening the canopy and thus allowing the invasion of light-loving alien plants, which are a threat to the continued existence of many of the proposed taxa. Over three-fourths of all known *Labordia tinifolia* var. *wahiawaensis* plants were destroyed as a result of the hurricane-force winds and substrate subsidence caused by the hurricane (S. Perlman, pers. comm., 1994). One plant of *Alsinidendron lychoides* and half of one population of *Hibiscus waimeae* ssp. *hannerae* were destroyed by the hurricane (M. Bruegmann, *in litt.,* 1994). Damage by future hurricanes could further decrease the already reduced numbers and reduced habitat of most of the 19 proposed taxa.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to propose listing 17 of these plant taxa as endangered (*Alsinidendron lychnoides, Alsinidendron viscosum, Cyanea remyi, Cyrtandra cyaneoides, Delissea rivularis, Hibiscadelphus woodii, Hibiscus waimeae* ssp. *hannerae, Kokia kauaiensis, Labordia tinifolia* var. *wahiawaensis, Phyllostegia knudsenii, Phyllostegia wawrana. Pritchardia napaliensis, Pritchardia viscosa, Schiedea helleri, Schiedea membranacea, Schiedea stellarioides,* and *Viola kauaensis* var. *wahiawaensis*) and 2 taxa as threatened (*Cyanea recta* and *Myrsine linearifolia*). Sixteen of the taxa proposed for listing either number no more than about 100 individuals or are known from 5 or fewer populations. The 17 taxa proposed as endangered are threatened by one or more of the following: habitat degradation and/or predation by feral pigs, feral goats, rats, and deer; competition from alien plants; substrate loss; human impacts; and lack of legal protection or difficulty in enforcing laws that are already in effect. Small population size and limited distribution make these species particularly vulnerable to extinction and/or reduced reproductive vigor from naturally occurring events. Because these 17 taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Although populations of *Cyanea recta* and *Myrsine linearifolia* are threatened by predation (by rats and/or goats), habitat modification by pigs and goats, and competition with alien plant species, the larger distribution of populations, presence of population regeneration, and total numbers of plants reduce the likelihood that these species will become extinct in the near future. For these reasons, *Cyanea recta* and *Myrsine linearifolia* are not now in immediate danger of extinction throughout all or a significant portion of their ranges. However, both species are likely to become endangered in the foreseeable future if the threats affecting these species are not curbed. As a result *Cyanea recta* and *Myrsine linearifolia* are proposed to be listed as threatened species.

Critical habitat is not being proposed for the 19 taxa included in this rule, for reasons discussed in the ''Critical Habitat'' section of this proposal.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time a species is proposed to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these 19 taxa. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of

critical habitat would not be beneficial to the species. As discussed under Factor B, these taxa are threatened by overcollection, due to low population size. The publication of precise maps and descriptions of critical habitat in the Federal Register and local newspapers as required in a proposal for critical habitat would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. The listing of these taxa as endangered publicizes the rarity or the plants and, thus, can also make these plants attractive to curiosity seekers or collectors of rare plants.

All involved parties and the major landowners have been notified of the location and importance of protecting the habitat of these taxa. Protection of the habitats of these plants will be addressed through the recovery process and through the section 7 consultation process as necessary. At present, the Service is not aware of any Federal activity within the currently known habitats of these plants.

Available Conservation Measures

Conservation measures provided to plant taxa listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed for listed species. The requirements for Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. None of the 19 proposed taxa occur on Federal lands and no known Federal activities occur within the present known habitat of these 19 plant taxa.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened plants. With respect to the 19 plant taxa in this rule, the prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any listed plant species; transport such species in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; or to remove and reduce to possession any such species from areas under Federal jurisdiction. In addition, it is illegal to maliciously damage or destroy any endangered plant from areas under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any endangered species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to these taxa in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked ''Of Cultivated Origin.'' Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving listed plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated that few trade permits would be sought or issued for most of the taxa, because they are not in cultivation or common in the wild. Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the Fish and Wildlife Service, Ecological Services, Permits Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone: 503/231–6241; facsimile: 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these 19 taxa;

(2) the location of any additional populations of these taxa and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) additional information concerning the range, distribution, and population size of these taxa; and

(4) current or planned activities in the range of these taxa and their possible impacts on these taxa.

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the Federal Register. Such requests must be made in writing and be addressed to the Pacific Islands Ecoregion Manager (See **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Ecoregion Office. (See **ADDRESSES** section).

Author

The author of this proposed rule is Marie M. Bruegmann, Pacific Islands Ecoregion Office. (See **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Alsinidendron lychnoides.	Kuawawaenohu	U.S.A. (HI)	Caryophyllaceae—Pink.	E		NA	NA
*	*	*	*	*	*	*	
Alsinidendron viscosum.	None	U.S.A. (HI)	Caryophyllaceae—Pink.	E		NA	NA
*	*	*	*	*	*	*	
Cyanea recta	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	T		NA	NA
*	*	*	*	*	*	*	
Cyanae remyi	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*	*	
Cyrtandra cyaneoides.	Mapele	U.S.A. (HI)	Gesneriaceae—African violet.	E		NA	NA
*	*	*	*	*	*	*	
Delissea rivularis	Oha	U.S.A. (HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*	*	
Hibiscadelphus woodii.	Hau kuahiwi	U.S.A. (HI)	Malvaceae—Mallow	E		NA	NA
*	*	*	*	*	*	*	
Hibiscus waimeae ssp. hannerae.	Koki'o ke' oke' o	U.S.A. (HI)	Malvaceae—Mallow	E		NA	NA
*	*	*	*	*	*	*	
Kokia kauaiensis	koki'o	U.S.A. (HI)	Malvaceae—Mallow	E		NA	NA
*	*	*	*	*	*	*	
Labordia tinifolia var. *wahiawaensis.*	Kamakahala	U.S.A. (HI)	Loganiaceae—Logania.	E		NA	NA
*	*	*	*	*	*	*	
Myrsine linearifolia ...	Kolea	U.S.A. (HI)	Myrsinaceae—Myrsine.	T		NA	NA
*	*	*	*	*	*	*	
Phyllostegia knudsenii.	None	U.S.A. (HI)	Lamiaceae—Mint	E		NA	NA
*	*	*	*	*	*	*	
Phyllostegia wawrana.	None	U.S.A. (HI)	Lamiacea—Mint	E		NA	NA
*	*	*	*	*	*	*	
Pritchardia napaliensis.	Loulu	U.S.A. (HI)	Arecaceae—Palm ...	E		NA	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
Pritchardia viscosa ..	Loulu	U.S.A. (HI)	Arecaceae—Palm ...	E		NA	NA
*	*	*	*	*	*	*	
Schiedea helleri	None	U.S.A. (HI)	Caryophyllaceae—Pink.	E		NA	NA
*	*	*	*	*	*	*	
Schiedea membranacea.	None	U.S.A. (HI)	Caryophyllaceae—Pink.	E		NA	NA
*	*	*	*	*	*	*	
Viola kauaensis var. *wahiawaensis.*	Nani wai'ale'ale	U.S.A. (HI)	Violaceae—Violet ...	E		NA	.....
*	*	*	*	*	*	*	

Dated: September 6, 1995.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 95–23637 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN 1018–AD25

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Thirteen Plants From the Island of Hawaii, State of Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 13 plants: *Clermontia drepanomorpha* ('oha wai), *Cyanea platyphylla* (haha), *Hibiscadelphus giffardianus* (hau kuahiwi), *Hibiscadelphus hualalaiensis* (hau kuahiwi), *Melicope zahlbruckneri* (alani), *Neraudia ovata* (no common name (NCN)), *Phyllostegia racemosa* (kiponapona), *Phyllostegia velutina* (NCN), *Phyllostegia warshaueri* (NCN), *Pleomele hawaiiensis* (hala pepe), *Pritchardia schattaueri* (loulu), *Sicyos alba* ('anunu), and *Zanthoxylum dipetalum* var. *tomentosum* (a'e). All 13 taxa are endemic to the island of Hawaii, Hawaiian Islands. The 13 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following—competition for space, light, water, and nutrients by naturalized, introduced vegetation; habitat degradation by wild, feral, or domestic animals (cattle, pigs, goats, and sheep); agricultural and residential development and recreational activities; habitat loss and damage to plants from fires; predation by animals (cattle, pigs, goats, sheep, insects, and rats); and natural disasters such as volcanic activity. Due to the small number of existing individuals and their very narrow distributions, these 13 taxa and their populations are subject to an increased likelihood of extinction and/or reduced reproductive vigor from natural disasters. This proposal, if made final, would implement the Federal protection provisions provided by the Act for listed plants. Listing under the Act would also trigger listed status for these 13 taxa under State law.

DATES: Comments from all interested parties must be received by November 24, 1995. Public hearing requests must be received by November 9, 1995.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Manager, Pacific Islands Ecoregion, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Manager, Pacific Islands Ecoregion (see **ADDRESSES** section) (telephone: 808/541–2749; facsimile: 808/541–2756).

SUPPLEMENTARY INFORMATION:

Background

Clermontia drepanomorpha ('oha wai), *Cyanea platyphylla* (haha), *Hibiscadelphus giffardianus* (hau kuahiwi), *Hibiscadelphus hualalaiensis* (hau kuahiwi), *Melicope zahlbruckneri* (alani), *Neraudia ovata* (no common name (NCN)), *Phyllostegia racemosa* (kiponapona), *Phyllostegia velutina* (NCN), *Phyllostegia warshaueri* (NCN), *Pleomele hawaiiensis* (hala pepe), *Pritchardia schattaueri* (loulu), Sicyos alba ('anunu), and *Zanthoxylum dipetalum* var. *tomentosum* (a'e) all are endemic to the island of Hawaii, Hawaiian Islands.

The island of Hawaii is the southernmost, easternmost, and youngest of the eight major Hawaiian Islands. This largest island of the Hawaiian archipelago is comprised of 10,458 square kilometers (sq km) (4,038 sq miles (mi)), or two-thirds of the land area of the State of Hawaii, giving rise to its common name, the ''Big Island.''

The Hawaiian Islands are volcanic islands formed over a ''hot spot,'' a fixed area of pressurized molten rock deep within the Earth. As the Pacific Plate, a section of the Earth's surface many miles thick, has moved to the northwest, the islands of the chain have separated. Currently, this hot spot is centered under the southeast part of the island of Hawaii, which is one of the most active volcanic areas on Earth. Five large shield volcanoes make up the island of Hawaii: Mauna Kea at 4,205 meters (m) (13,796 feet (ft)) and Kohala at 1,670 m (5,480 ft), both extinct; Hualalai, at 2,521 m (8,271 ft), which is dormant and will probably erupt again; and Mauna Loa at 4,169 m (13,677 ft) and Kilauea at 1,248 m (4,093 ft), both of which are currently active and adding land area to the island. Compared to Kauai, which is the oldest of the main islands and was formed about 5.6 million years ago, Hawaii is very young, with fresh lava and land up to 0.5 million years old (Cuddihy and Stone 1990, Culliney 1988, Department of Geography 1983, Macdonald *et al.* 1983).

Because of the large size and range of elevation of the island, Hawaii has a

great diversity of climates. Windward (northeastern) slopes of Mauna Loa have rainfall up to 300 centimeters (cm) (118 inches (in)) per year in some areas. The leeward coast, shielded by the mountains from rain brought by trade winds, has areas classified as desert that receive as little as 20 cm (7.9 in) of rain annually. The summits of Mauna Loa and Mauna Kea experience snowfall each year, and Mauna Kea was glaciated during the last Ice Age (Culliney 1988, Department of Geography 1983, Macdonald *et al*. 1983, Wagner *et al*. 1990).

Plant communities on Hawaii include those in various stages of primary succession on the slopes of active and dormant volcanoes, ones in stages of secondary succession following disturbance, and relatively stable climax communities. On Hawaii, vegetation is found in all classifications—coastal, dryland, montane, subalpine, and alpine; dry, mesic, and wet; and herblands, grasslands, shrublands, forests, and mixed communities. The vegetation and land of the island of Hawaii have undergone much change through the island's history. Since it is an area of active volcanism, vegetated areas are periodically replaced with bare lava. Polynesian immigrants, first settling on Hawaii by 750 A.D., made extensive alterations to lowland areas for agriculture and habitation. European contact with Hawaii brought intentional and inadvertent introductions of alien plant and animal taxa. In 1960, 65 percent of the total land area of the island of Hawaii was used for grazing, and much land has also been converted to modern cropland (Cuddihy and Stone 1990, Gagne and Cuddihy 1990).

The 13 taxa included in this rule occur between 120 and 1,850 m (400 and 6,080 ft) in elevation in various portions of the island of Hawaii. Most of the proposed taxa exist as remnant plants persisting in grazed areas or in higher elevations which have only recently been heavily invaded by alien plant and animal taxa. The proposed taxa grow in a variety of vegetation communities (pioneer lava, shrublands, and forests), elevational zones (lowland and montane) and moisture regimes (dry, mesic, and wet). In lowland habitats, the proposed taxa are found in pioneer lava, shrubland, dry forest, mesic forest, and wet forest. In montane habitats, the proposed taxa are found in dry forest, mesic forest, and wet forest.

The lands on which these 13 plant taxa are found are owned by various private parties, the State of Hawaii (including conservation district lands, forest reserves, natural area reserves, and plant and wildlife sanctuaries), or are owned or managed by the Federal government (including a U.S. Fish and Wildlife Service refuge and a National Park).

Discussion of the 13 Taxa Included in This Proposed Rule

Joseph F. Rock (1913) named *Clermontia drepanomorpha* on the basis of specimens collected in the Kohala Mountains of the island of Hawaii in the early 1900s. This taxonomy has been upheld in the latest treatment of the genus (Lammers 1990).

Clermontia drepanomorpha, of the bellflower family (Campanulaceae), is a terrestrial or epiphytic (not rooted in the soil), branching tree 2.5 to 7 m (8.2 to 23 ft) tall. The stalked leaves are 10 to 27 cm (4 to 11 in) long and 1.5 to 4.5 cm (0.6 to 1.8 in) wide. Two to four flowers, each with a stalk 2 to 3.5 cm (0.8 to 1.4 in) long, are positioned at the end of a main flower stalk 5 to 12 cm (2 to 5 in) long. The calyx (fused sepals) and corolla (fused petals) are similar in size and appearance, and each forms a slightly curved, five-lobed tube 4 to 5.5 cm (1.6 to 2.2 in) long and 1.5 to 2 cm (0.6 to 0.8 in) wide which is blackish purple. The berries are orange and 2 to 3 cm (0.8 to 1.2 in) in diameter. This species is distinguished from others in this endemic Hawaiian genus by similar sepals and petals, the long drooping inflorescence, and large blackish purple flowers (Lammers 1990, Rock 1919).

Historically, *Clermontia drepanomorpha* was known from four populations in the Kohala Mountains on the island of Hawaii (Hawaii Heritage Program (HHP) 1993a1 to 1993a4, Rock 1913, Skottsberg 1944, Stemmermann and Jacobson 1987). Two populations of the species are known to be extant, on State-owned land in Forest Reserve and Puu o Umi Natural Area Reserve (NAR), with both populations bordering private ranch lands. The two known populations near Eke and along the Hamakua Ditch Trail are about 5.5 km (3.4 mi) apart. Thirteen to 20 individuals are known to exist (Corn 1983; HHP 1993a1, 1993a4; Hawaii Plant Conservation Center (HPCC) 1993a; Marie M. Bruegmann, U.S. Fish and Wildlife Service (USFWS), *in litt.*, 1994; Carolyn Corn, Hawaii Division of Forestry and Wildlife (DOFAW), *in litt.*, 1994).

This species typically grows in *Metrosideros polymorpha* ('ohi'a) and *Cibotium glaucum* (tree fern) dominated Montane Wet Forests, often epiphytically, at elevations between 1,170 and 1,570 m (3,850 and 5,150 ft) (Corn 1983; HHP 1993a1, 1993a4; HPCC 1993a). Associated taxa include *Cheirodendron trigynum* ('olapa), *Carex alligata*, *Melicope clusiifolia* (alani), *Styphelia tameiameiae* (pukiawe), *Astelia menziesii* (pa'iniu), *Rubus hawaiiensis* ('akala), *Cyanea pilosa* (haha), and *Coprosma* sp. (pilo) (HHP 1993a1, HPCC 1993a).

The major threats to *Clermontia drepanomorpha* are ditch improvements, competition from alien plant taxa such as *Rubus rosifolius* (thimbleberry), habitat disturbance by feral pigs (*Sus scrofa*), girdling of the stems by rats (*Rattus* spp.), and a risk of extinction from naturally occurring events (such as hurricanes) and/or reduced reproductive vigor due to the small number of existing populations and individuals (Bruegmann 1990, Center for Plant Conservation (CPC) 1990, HHP 1993a1, HPCC 1993a).

Asa Gray (1861) named *Delissea platyphylla* from a specimen collected by Horace Mann and W.T. Brigham in the Puna District of the island of Hawaii. Wilhelm Hillebrand (1888) transferred the species to *Cyanea*, creating *Cyanea platyphylla*. Harold St. John (1987a, St. John and Takeuchi 1987), believing there to be no generic distinction between *Cyanea* and *Delissea*, transferred the species back to the genus Delissea, the older of the two generic names. The current treatment of the family (Lammers 1990), however, maintains the separation of the two genera. The following taxa have been synonymized with *Cyanea platyphylla*: *C. bryanii*, *C. crispohirta*, *C. fernaldii*, *C. nolimetangere*, *C. pulchra*, and *C. rollandioides*.

However, some field biologists feel that *C. fernaldii*, represented by the Laupahoehoe populations, is a distinct entity that should be resurrected as a separate species (Frederick Warshauer, USFWS, pers. comm., 1994).

Cyanea platyphylla, of the bellflower family, is an unbranched palm-like shrub 1 to 3 m (3 to 10 ft) tall with stems that are covered with short, sharp, pale spines on the upper portions, especially as juveniles. This species has different leaves in the juvenile and adult plants. The juvenile leaves are 10.5 to 25 cm (4.1 to 10 in) long and 4 to 7.5 cm (1.6 to 3.0 in) wide, with prickles on leaves and stalks. Adult leaves are 34 to 87 cm (13 to 34 in) long and 7 to 22 cm (2.8 to 8.7 in) wide, and are only sparsely prickled. Six to 25 flowers are clustered on the end of a main stalk 20 to 90 cm (8 to 35 in) long, and each flower has a stalk 1 to 2.5 cm (0.4 to 1 in) long. The hypanthium is topped by five small, triangular calyx lobes. Petals, which are white or yellowish white with magenta stripes, are fused into a curved tube with five spreading lobes. The corolla is 4.2 to 5.4 cm (1.7 to 2.1 in) long and 5

to 10 millimeters (mm) (0.2 to 0.4 in) wide. Berries are pale orange, 8 to 10 mm (0.3 to 0.4 in) long, and 6 to 8 mm (0.2 to 0.3 in) wide. The species differs from others in this endemic Hawaiian genus by its juvenile and adult leaves, precocious flowering, and smaller flowers (Lammers 1990).

Cyanea platyphylla was historically known from the Kohala Mountains, Laupahoehoe in the Hamakua District, in the mountains above Hilo, Pahoa, Glenwood, Honaunau in South Kona, and the unknown location ''Kalanilehua'' (HHP 1991a1 to 1991a4, 1991a7, 1991a8, 1991a11, 1991a12, 1993b; Rock 1917, 1919, 1957; Skottsberg 1926; Wimmer 1943 and 1968). Only five mature individuals and two juveniles are known to still exist in one population in Laupahoehoe NAR (CPC 1989, 1990; Cuddihy *et al.* 1982; HHP 1991a6; HPCC 1991a; C. Corn, *in litt.*, 1994), which is owned and managed by the State of Hawaii. Two additional populations in Laupahoehoe NAR have not been seen since 1982 and could not be relocated in 1989, and a third population near the Saddle Road, last seen in 1977, has also probably been extirpated. The only remaining population of this species has been fenced by the NAR System to protect it from pig depredation (Cuddihy *et al.* 1982; HHP 1991a5, 1991a9, 1991a10; Linda Pratt, Hawaii Volcanoes National Park (HVNP), pers. comms., 1991 and 1994).

Cyanea platyphylla is typically found in *Metrosideros polymorpha* ('ohi'a)—*Acacia koa* (koa) Lowland and Montane Wet Forests at elevations between 120 and 915 m (390 and 3,000 ft) (Lammers 1990). Associated taxa include *Cibotium* sp. (tree fern), *Athyrium sandwichianum* (ho'i'o), *Antidesma* sp. (hame), *Clermontia* spp. ('oha wai), *Hedyotis* sp. (pilo), and *Cyrtandra* spp. (ha'iwale) (HHP 1991a6, HPCC 1991a).

The major known threats to *Cyanea platyphylla* are pigs; habitat-modifying introduced plant taxa, including *Psidium cattleianum* (strawberry guava), *Psidium guajava* (guava), *Passiflora ligularis* (sweet granadilla), and thimbleberry; and rats, which may eat the fruit (Cuddihy *et al.* 1982; HHP 1991a6, 1991a9; HPCC 1991a; M. Bruegmann, *in litt.*, 1994; L. Pratt, pers. comm., 1994). Another threat is the risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the single known population of few individuals.

Rock (Radlkofer and Rock 1911) named *Hibiscadelphus giffardianus* to honor W.M. Giffard, who first saw the taxon in 1911. This species was used as the type specimen to describe *Hibiscadelphus* as a new genus, meaning ''brother of *Hibiscus*'' (Bryan 1971). This taxonomy has been upheld in the latest treatment of the genus (Bates 1990).

Hibiscadelphus giffardianus, of the mallow family (Malvaceae), is a tree up to 7 m (23 ft) tall with the trunk up to 30 cm (12 in) in diameter and whitish bark. The leaf blades are heart-shaped and 10 to 30 cm (4 to 12 in) long with a broad tip, a notched base, and stalks nearly as long as the blades. Flowers are typically solitary in the axils of the leaves and have stalks 1.5 to 4 cm (0.6 to 1.6 in) long. Five to seven filament-like bracts are borne below each flower and the calyx is pouch-like. The overlapping petals form a curved bisymmetrical flower with the upper petals longer, typical of bird-pollinated flowers. The flowers are grayish green on the outside and dark magenta within, and 5 to 7 cm (2 to 3 in) long. The fruit is woody with star-shaped hairs. This species differs from others in this endemic Hawaiian genus by its flower color, flower size, and filamentous bracts (Baker and Allen 1976b, Bates 1990, Degener 1932a, Degener and Degener 1977, Radlkofer and Rock 1911).

Only one tree of *Hibiscadelphus giffardianus* has ever been known in the wild, from Kipuka Puaulu (or Bird Park) in HVNP. This tree died in 1930, but plants exist in cultivation from seeds originally collected by Giffard before the tree died (Degener 1932a). Cuttings from these cultivated trees have been planted back into the now fenced original habitat at Kipuka Puaulu and currently nine mature plants and two suckers are known to exist (Baker and Allen 1977; Bishop and Herbst 1973; HHP 1991b; HPCC 1991b1, 1991b2; M. Bruegmann, *in litt.*, 1994). Individuals planted in Kipuka Ki were later determined to be hybrids and were removed by Park personnel (Baker and Allen 1977, Mueller-Dombois and Lamoureux 1967). The cultivated plants in Kipuka Puaulu have spontaneously produced fertile hybrids with cultivated plants of *Hibiscadelphus hualalaiensis* that were also planted into Kipuka Puaulu and Kipuka Ki. Both the *Hibiscadelphus hualalaiensis* and the hybrids have been removed from the Park (Baker and Allen 1976a, 1977; Carr and Baker 1977). *Hibiscadelphus giffardianus* has been listed as endangered in the *IUCN Plant Red Data Book* (Lucas and Synge 1978).

This taxon grows in mixed Montane Mesic Forest at elevations between 1,200 and 1,310 m (3,900 and 4,300 ft) (Bates 1990; HHP 1991b; HPCC 1991b1, 1991b2). Associated taxa include 'ohi'a, koa, *Sapindus saponaria* (a'e), ho'i'o, *Coprosma* sp. (pilo), *Pipturus albidus* (mamaki), *Psychotria* sp. (kopiko), *Nestegis sandwicensis* (olopua), *Melicope* sp. (alani), *Dodonaea viscosa* ('a'ali'i), *Myoporum sandwicense* (naio), and introduced grasses (HHP 1991b; HPCC 1991b1, 1991b2).

The major threats to *Hibiscadelphus giffardianus* are bark, flower, and fruit feeding by roof rats (*Rattus rattus*); leaf damage in the form of stippling and yellowing by *Sophonia rufofascia* (two-spotted leafhopper) and yellowing by the native plant bug *Hyalopeplus pellucidus*; competition from the alien grasses *Ehrharta stipoides* (meadow ricegrass), *Paspalum conjugatum* (Hilo grass), and *Paspalum dilatatum* (Dallis grass); habitat change from volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing cultivated individuals, all from a single parent (Baker and Allen 1978; M. Bruegmann, *in litt.*, 1994; L. Pratt, pers. comm., 1994). Cattle (*Bos taurus*) were known in the area before it became a National Park and probably had a large influence on the habitat (Anonymous 1920, Rock 1913, St. John 1981).

Rock (Radlkofer and Rock 1911) named *Hibiscadelphus hualalaiensis* after Hualalai, the volcano on which the plant was found in 1909 (Rock 1913). This taxonomy has been upheld in the latest treatment of the genus (Bates 1990).

Hibiscadelphus hualalaiensis, of the mallow family, is a tree 5 to 7 m (16 to 23 ft) tall with the trunk up to 30 cm (12 in) in diameter and whitish bark. The leaf blades are heart-shaped and 10 to 15 cm (4 to 6 in) long with a broad tip, a notched base, stellate hairs, and stalks 4 to 10 cm (1.5 to 4 in) long. One or two flowers are borne in the axils of the leaves and have stalks 1.5 to 14 cm (0.6 to 5.5 in) long. Five toothlike bracts are borne below each flower and the calyx is tubular or pouch-like. The overlapping petals form a curved bisymmetrical flower with longer upper petals, typical of bird-pollinated flowers. The flowers are greenish yellow on the outside and yellowish green, fading to purplish within, and 2 to 5.5 cm (0.8 to 2.2 in) long. The fruit is woody and the seeds have a dense covering of hairs. The species differs from others in this endemic Hawaiian genus by its flower color, smaller flower size, and toothlike bracts (Baker and Allen 1976b, Bates 1990, Degener 1932b, Radlkofer and Rock 1911).

Hibiscadelphus hualalaiensis was historically known from three populations, located in the Puu Waawaa region of Hualalai, on the island of

Hawaii (HHP 1993c1 to 1993c3; HPCC 1990a, 1991c, 1992a). The last known wild tree was in Puu Waawaa I Plant Sanctuary, owned and managed by the Department of Land and Natural Resources, State of Hawaii. This tree died in 1992, but 12 cultivated trees have been planted within the fenced sanctuary (HHP 1993c2; M. Bruegmann, *in litt.,* 1994; Joel Lau, HHP, *in litt.,* 1991). In addition, approximately ten cultivated plants can be found near the State's Kokia Sanctuary in Kaupulehu (HPCC 1990a; Steven Bergfeld, DOFAW, pers. comm., 1994). Cultivated individuals were planted in Kipuka Puaulu in HVNP, but were removed to prevent further hybridization with the *Hibiscadelphus giffardianus* plants that are native to the kipuka (Baker and Allen 1977, 1978).

This species grows in mixed Dry to Mesic Forest remnants on lava fields, at elevations between 915 and 1,020 m (3,000 and 3,350 ft) (Bates 1990; HHP 1993c3; HPCC 1991c, 1992a). Associated taxa include 'ohi'a, *Diospyros sandwicensis* (lama), *Sophora chrysophylla* (mamane), naio, *Pouteria sandwicensis* ('ala'a), *Charpentiera* sp. (papala), *Nothocestrum* sp. ('aiea), *Claoxylon sandwicense* (po'ola), and *Pennisetum clandestinum* (Kikuyu grass) (HHP 1993c3; HPCC 1991c, 1992a; J. Lau, *in litt.*, 1991).

The major threats to *Hibiscadelphus hualalaiensis* are fire; cattle, pigs, and sheep (*Ovis aries*) that may get through the fence; flower and seed feeding by roof rats; competition from alien plants such as Kikuyu grass and *Lantana camara* (lantana); ranching activities; habitat change from volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of known cultivated individuals from a single parent (Anonymous 1920; Baker and Allen 1978; HHP 1993c3; HPCC 1991c, 1992a; M. Bruegmann, *in litt.*, 1994).

Based on a specimen he collected in 1911 in Kipuka Puaulu, on the island of Hawaii, Rock (1913) described *Pelea zahlbruckneri,* in honor of Dr. A. Zahlbruckner, director of the Botanical Museum in Vienna. *Pelea* has since been submerged into *Melicope,* creating the combination *Melicope zahlbruckneri* (Stone *et al.* 1990).

Melicope zahlbruckneri, of the citrus family (Rutaceae), is a medium-sized tree 10 to 12 m (33 to 40 ft) tall. New growth is covered with yellowish brown, fine, short, curly hairs. The opposite, stalked, elliptically oblong leaves are 6 to 24 cm (2.4 to 9.5 in) long and 4 to 12.5 cm (1.6 to 4.9 in) wide, with well defined lateral veins. Clusters of two to five flowers have main flowering stalks 15 to 20 cm (5.9 to 7.9 in) long and each flower has a stalk about 0.4 cm (0.2 in) long. Female flowers consist of four sepals about 1.5 mm (0.05 in) long, four petals about 3 mm (0.1 in) long, an eight-lobed nectary disk, eight reduced and nonfunctional stamens, and a hairless four-celled ovary. Male flowers consist of four sepals 3.5 mm (0.01 in) long, four petals about 6 mm (0.2 in) long, and eight functional stamens in two whorls equal to or longer than the petals. The fruit is squarish, 12 to 14 mm (0.4 to 0.5 in) long, and up to 30 mm (1.2 in) wide. *Melicope zahlbruckneri* is distinguished from other species of the genus by its branching habit, large leaves, and very large, squarish capsules (Rock 1913, Stone 1969, Stone *et al.* 1990).

Historically, *Melicope zahlbruckneri* was known only from the island of Hawaii near Glenwood, in Kipuka Puaulu, and at Moaula in Kau (Degener 1930, HHP 1991c1 to 1991c3, HPCC 1991d, Rock 1913, Stone 1969, Stone *et al.* 1990). Today, the species is known to be extant only in Kipuka Puaulu, on land owned by HVNP, with 30 to 35 individuals remaining (HHP 1991c2; HPCC 1991d; L. Pratt, pers. comm., 1994). The species is reproducing at this fenced site, and juvenile plants are present (L. Pratt, pers. comm., 1994). This species is found in koa- and 'ohi'a-dominated Montane Mesic Forest at elevations between 1,195 and 1,300 m (3,920 and 4,265 ft) (HHP 1991c2, HPCC 1991d, Stone *et al.* 1990). Associated taxa include pilo, a'e, mamaki, kopiko, olopua, naio, *Pisonia* sp. (papala), several species of *Melicope* (alani), ho'i'o, 'a'ali'i, and the introduced grasses, meadow ricegrass, Hilo grass, and Dallis grass (HHP 1991c2; HPCC 1991d; M. Bruegmann, *in litt.*, 1994; L. Pratt, pers. comm., 1994).

The major threats to *Melicope zahlbruckneri* are the two-spotted leafhopper; competition from the introduced grasses meadow ricegrass, Hilo grass, and Dallis grass; habitat change due to volcanic activity; potential fruit damage by rats; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of individuals in the one remaining population (HPCC 1991d; M. Bruegmann, *in litt.*, 1994; L. Pratt, pers. comm., 1994).

Neraudia pyrifolia was named by Charles Gaudichaud-Beaupré from material he collected in the early 1800s on the island of Hawaii (Cowan 1949). This name was determined to be invalidly published, lacking an adequate description. Gaudichaud-Beaupré named *Neraudia ovata* from an additional specimen, and this has been maintained in the current taxonomic treatment for the species. H.A. Weddell considered this taxon a variety of *Neraudia melastomifolia,* but this has not been upheld by other taxonomists. S.L. Endlicher and E.G. Steudel placed this species in the genus *Boehmeria,* but the current taxonomic treatment maintains *Neraudia* as an endemic Hawaiian genus. Harold St. John named a new species, *Neraudia cookii,* from a collection by David Nelson on Cook's 1779 voyage to Hawaii (St. John 1976). That specimen is considered to be *Neraudia ovata* in the current taxonomic treatment (Cowan 1949, Wagner *et al.* 1990).

Neraudia ovata, of the nettle family (Urticaceae), is a sprawling or rarely erect shrub with stems 1 to 3 m (3 to 10 ft) long, and branches bearing short, somewhat erect hairs. The alternate, thin, stalked leaves are smooth-margined, grayish on the undersurface, 5 to 14 cm (2 to 5.5 in) long and 2 to 6.5 cm (0.8 to 2.6 in) wide, and have spreading, curved, nearly translucent hairs. Male and female flowers are found on separate plants. Male flowers have extremely short stalks and a densely hairy calyx. Female flowers have no stalks and a densely hairy, boat-shaped calyx. The fruit is an achene (a dry one-seeded fruit that does not open at maturity). This species is distinguished from others in this endemic Hawaiian genus by the density, length, and posture of the hairs on the lower leaf surface; smooth leaf margin; and the boat-shaped calyx of the female flower (Cowan 1949, Wagner *et al.* 1990).

Historically, *Neraudia ovata* was found on the island of Hawaii on the Kona coast from North Kona and Kau (Cowan 1949; HHP 1991d1 to 1991d3, 1993d1 to 1993d7; Hillebrand 1888; St. John 1976 and 1981; Skottsberg 1944). Only one extant population of two individuals is known from privately owned land in Kaloko, North Kona (Nishida 1993; Warshauer and Gerrish 1993; M. Bruegmann, *in litt.,* 1994). An additional population at Kipuka Kalawamauna, on the boundary of the U.S. Army's Pohakuloa Training Area, was last seen in 1980 and is assumed to be extirpated (HHP 1993d4, 1993d5).

Neraudia ovata grows in open 'ohi'a- and mamane-dominated Lowland and Montane Dry Forests at elevations of 115 m (380 ft) at Kaloko and 1,325 and 1,460 m (4,350 to 4,800 ft) at Kipuka Kalawamauna (HHP 1993d4, 1993d5; Nishida 1993; M. Bruegmann, *in litt.,* 1994). Associated taxa include *Reynoldsia sandwicensis* ('ohe), naio,

Cocculus triloba (huehue), and *Schinus terebinthifolius* (Christmas berry), as well as the federally endangered *Nothocestrum breviflorum* (ai'ae), proposed endangered *Pleomele hawaiiensis* (hala pepe), and other species of concern, including *Capparis sandwichiana* (pua pilo), *Fimbristylis hawaiiensis*, and *Bidens micrantha* ssp. *ctenophylla* (ko'oko'olau) (Nishida 1993; Warshauer and Gerrish 1993; M. Bruegmann, *in litt.*, 1994).

The major threats to *Neraudia ovata* are competition from alien plants such as Christmas berry, *Leucaena leucocephala* (koa haole), and *Pennisetum setaceum* (fountain grass); habitat change due to volcanic activity; residential development; insects such as spiralling whitefly (*Aleurodicus dispersus*); and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals in the one remaining population (Nishida 1993; M. Bruegmann, *in litt.*, 1994).

From a specimen collected by James Macrae on Mauna Kea, on the island of Hawaii, Bentham named *Phyllostegia racemosa* in 1830 (Sherff 1935). The current treatment of the genus includes E.E. Sherff's (1935) *Phyllostegia racemosa* var. *bryanii* with *Phyllostegia mannii*, rather than with this species (Wagner *et al.* 1990).

Phyllostegia racemosa, of the mint family (Lamiaceae), is a climbing vine with many-branched, square stems and spicy-smelling leaves. Leaves are opposite, moderately covered with short, soft hairs, dotted with small glands, 3.4 to 6 cm (1.3 to 2.4 in) long, and 1.4 to 4.3 cm (0.6 to 1.7 in) wide, with shallow, rounded teeth. The leaf stalks are densely covered with short hairs. Flower clusters, densely covered with short soft hairs, are comprised of 6 to 12 flowers with individual flower stalks 1 to 3 mm (0.04 to 0.12 in) long and leaflike bracts. The green bell-shaped calyx is about 3.5 to 5 mm (0.1 to 0.2 in) long, covered with glands, and has triangular lobes. The white corolla is two-lipped, with a tube about 7 to 10 mm (0.3 to 0.4 in) long, upper lip 2 to 2.5 mm (0.08 to 0.1) long, and lower lip 4 to 5 mm (0.16 to 0.2 in) long. Fruits are divided into four nutlets about 1.5 to 2 mm (0.06 to 0.08 in) long. This species is distinguished from others in this genus by its leaf shape, lack of a main stalk to the flower clusters, and calyx teeth that are rounded and shallow (Hillebrand 1888, Sherff 1935, Wagner *et al.* 1990).

Historically, *Phyllostegia racemosa* was found only on the island of Hawaii in the Hakalau and Saddle Road areas of Mauna Kea and the Kulani/Keauhou and Kipuka Ahiu areas of Mauna Loa (Clarke *et al.* 1983; HHP 1990a1, 1991a2, 1991e1 to 1991e4; Pratt and Cuddihy 1990; Sherff 1935, 1951; Jack Jeffrey, USFWS, *in litt.*, 1993; Jaan Lepson, University of Hawaii (UH), *in litt.*, 1990). Today, three populations of the species are known to occur on private and State lands in the Kulani/Keauhou area and on Federal land managed as the Hakalau National Wildlife Refuge. Together, these three populations comprise 25 to 45 individuals (HHP 1991e1, 1991e4; HPCC 1991d; J. Jeffrey, *in litt.*, 1993; J. Lepson, *in litt.*, 1993; J. Jeffrey, pers. comm., 1994).

Phyllostegia racemosa is typically found epiphytically in disturbed koa-, 'ohi'a-, and tree fern-dominated Montane Mesic or Wet Forests at elevations between 1,400 and 1,850 m (4,650 to 6,070 ft) (Clarke *et al.* 1983; HHP 1991e1, 1991e4; HPCC 1991e; Wagner *et al.* 1990; J. Jeffrey, *in litt.*, 1993). Associated taxa include *Vaccinium calycinum* (ohelo), *Rubus hawaiiensis* (akala), and *Dryopteris wallichiana*.

The major threats to *Phyllostegia racemosa* are habitat disturbance by feral pigs and cattle; logging; competition from alien plant taxa such as *Passiflora mollissima* (banana poka), Kikuyu grass, *Anthoxanthum odoratum* (sweet vernalgrass), and *Paspalum urvillei* (Vasey grass); habitat change due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals (Clarke *et al.* 1983; HHP 1991e1, 1991e4; HPCC 1991e; Pratt and Cuddihy 1990).

Based on a specimen collected on Mauna Kea by the U.S. Exploring Expedition in 1840, Sherff described a new variety of *Phyllostegia macrophylla*, variety *velutina*, named for its velvety leaves and stems (Sherff 1935). St. John (1987b) determined that this entity was sufficiently different to constitute a separate species, *Phyllostegia velutina*, which has been maintained in the current treatment of the genus (Wagner *et al.* 1990).

Phyllostegia velutina, of the mint family, is a climbing vine with dense, backward-pointing hairs on the leaves and square stems. The hairs are silky on the opposite, narrow, toothed leaves, which are 9.2 to 17.5 cm (3.6 to 6.9 in) long and 2.5 to 5 cm (1 to 2 in) wide. Six to 10 flowers are borne in an unbranched inflorescence with conspicuous leaflike bracts. The green bell-shaped calyx is 6 to 7 mm (0.2 to 0.3 in) long, densely covered with upward-pointing hairs, and has triangular lobes. The white corolla is densely covered with upward-pointing hairs and is two-lipped, with a slightly curved tube about 12 mm (0.4 in) long, upper lip 5 to 7 mm (0.2 to 0.3 in) long, and lower lip 4 to 5 mm (0.1 to 0.2 in) long. Fruits are divided into four nutlets about 4 to 5 mm (0.1 to 0.2 in) long. This species is distinguished from others in this genus by its silky hairs, lack of a main stalk to the flower clusters, and calyx teeth that are narrow and sharply pointed (Sherff 1935, Wagner *et al.* 1990).

Historically, *Phyllostegia velutina* occurred on the island of Hawaii on the southern slopes of Hualalai and the eastern, western, and southern slopes of Mauna Loa (Clarke *et al.* 1983, HHP 1991f1 to 1991f4, Sherff 1935, Wagner *et al.* 1990). Two extant populations are known to occur at Puu Waawaa on a State-owned wildlife sanctuary and at Kulani/Keauhou on a State-owned correctional facility and adjacent privately owned land (Clarke *et al.* 1983; HHP 1991f1; HPCC 1990b, 1991f, 1992b; M. Bruegmann, *in litt.*, 1994; Jon Giffin, DOFAW, pers. comm., 1994). Approximately 25 to 50 plants are known from these two populations (HHP 1991f1; HPCC 1990b, 1991f, 1992b; M. Bruegmann, *in litt.*, 1994). A third population has been reported from the general area of Waiea Tract in South Kona, but the exact location and current status of this population are unknown (HHP 1991f2).

Phyllostegia velutina typically grows in 'ohi'a- and koa-dominated Montane Mesic and Wet Forests at elevations between 1,490 and 1,800 m (4,900 and 6,000 ft) (Clarke *et al.* 1983; HHP 1991f1; HPCC 1990b, 1991f, 1992b; Wagner *et al.* 1990). Associated taxa include tree ferns, *Cheirodendron trigynum* ('olapa), 'ohelo, pilo, *Dryopteris wallichiana*, akala, mamaki, ho'i'o, *Myrsine* sp. (kolea), and *Ilex anomala* (kawa'u).

Threats to *Phyllostegia velutina* are habitat damage by cattle, feral pigs and sheep; prison facility expansion, road clearing, and logging; competition from alien plants such as Kikuyu grass, *Rubus ellipticus* (yellow Himalayan raspberry), Vasey grass, and fountain grass; fire; habitat change due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals (HHP 1991f1; HPCC 1990b, 1991f, 1992b; M. Bruegmann, *in litt.*, 1994).

Phyllostegia ambigua var. *longipes* was first collected by J.M. Lydgate and named by Hillebrand (1888). The type

locality was suggested to be ''probably East Maui'' (Hillebrand 1888), but this is assumed to be in error, since Rock's field notes indicate that he and Lydgate were in the Kohala Mountains at the time of that collection (Cuddihy 1982, Wagner *et al.* 1990). E.E. Sherff did not consider *Phyllostegia ambigua* different from *Phyllostegia brevidens*, and created the combination *Phyllostegia brevidens* var. *longipes* (Sherff 1935). Based on newly collected material, St. John considered this variety sufficiently different to warrant designation as the species *Phyllostegia warshaueri* (St. John 1987b). The current treatment has maintained this species (Wagner *et al.* 1990).

Phyllostegia warshaueri, of the mint family, is either a sprawling or climbing vine with end branches turning up, covered with upward-pointing fine, short hairs on the square stems which are about 1 to 3 m (3.3 to 10 ft) long. The opposite, nearly hairless, toothed leaves are 9.5 to 20 cm (3.7 to 7.9 in) long and 2 to 6.6 cm (0.8 to 2.6 in) wide. Six to 14 flowers are borne in an unbranched inflorescence up to 20 cm (7.9 in) long with a main stalk 25 to 40 mm (1.0 to 1.6 in) long and conspicuous leaflike bracts. The green, hairless, cone-shaped calyx is 6 to 8 mm (0.2 to 0.3 in) long and has triangular lobes. The corolla is white with a dark rose upper lip, sparsely hairy, and has a tube about 18 to 20 mm (0.7 to 0.8 in) long, upper lip about 6 mm (0.2 in) long, and lower lip 12 to 15 mm (0.5 to 0.6) long. Fruits are divided into four nutlets about 6 to 7 mm (0.2 to 0.3 in) long. This species is distinguished from others in this genus by its long main stalk to the flower clusters, toothed leaves, and the distribution of hairs (Sherff 1935, Wagner *et al.* 1990).

Historically, *Phyllostegia warshaueri* was found only on the island of Hawaii, in the Hamakua region on the northern slopes of Mauna Kea and in the Kohala Mountains (Clarke *et al.* 1981; Cuddihy 1982; HHP 1991g1 to 1991g3, 1993e). The only known individual occurs near the Hamakua Ditch Trail in the Kohala Mountains, on privately owned land (HPCC 1992c; M. Bruegmann, *in litt.*, 1994). This species grows in 'ohi'a Montane Wet Forest in which koa or olapa may codominate, at elevations between 730 and 1,150 m (2,400 and 3,770 ft) (Clarke *et al.* 1981; Cuddihy *et al.* 1982; HHP 1991g1, 1991g2; HPCC 1992c; Wagner *et al.* 1990). Associated taxa include *Sadleria* sp. ('amau), tree ferns, *Broussaisia arguta* (kanawao), mamaki, *Dubautia plantaginea* (na'ena'e), 'oha wai, ho'i'o, *Machaerina angustifolia* ('uki'uki), *Cyanea pilosa* (haha), and other species of *Cyanea* (HPCC 1992c).

The major threats to *Phyllostegia warshaueri* are habitat destruction by pigs; competition from alien plant taxa such as thimbleberry, strawberry guava, *Setaria palmifolia* (palmgrass), *Juncus planifolius*, and *Tibouchina herbacea* (glorybush); ditch improvements; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals in the one remaining population (HPCC 1992c; M. Bruegmann, *in litt.*, 1994).

Otto and Isabelle Degener named *Pleomele hawaiiensis* from a specimen collected in 1977, which was first validly published in 1980 (Degener and Degener 1980). Some experts considered this genus to be part of the larger genus *Dracaena*, but this combination has not been upheld. St. John (1985) distinguished two separate species, *Pleomele haupukehuensis* and *P. konaensis*, which the current treatment includes in *Pleomele hawaiiensis* (Wagner *et al.* 1990).

Pleomele hawaiiensis, of the agave family (Agavaceae), is a branching tree, 5 to 6 m (16 to 20 ft) tall, with leaves spirally clustered at the tips of branches and leaving large brown leaf scars as they fall off. The leaves measure 23 to 38 cm (9 to 15 in) long and 1.4 to 2.7 cm (0.6 to 1 in) wide. Flowers are numerous in terminal clusters with a main stalk 6 to 13 cm (2 to 5 in) long and individual flower stalks 5 to 12 mm (0.2 to 0.5 in) long. The three sepals and three petals of the flower are similar and pale yellow, 33 to 43 mm (1.3 to 1.7 in) long, with a constricted base. The fruit is a red berry about 10 to 13 mm (0.4 to 0.5 in) long. This species differs from other Hawaiian species in this genus by its pale yellow flowers, the size of the flowers, the length of the constricted base of the flower, and the width of the leaves (Degener and Degener 1930, St. John 1985, Wagner *et al.* 1990).

Historically, *Pleomele hawaiiensis* was found only on the island of Hawaii ranging from Hualalai to Kau (Degener and Degener 1980; HHP 1991h1 to 1991h8, 1993f1 to 1993f4; HPCC 1991g, 1992d, 1993b; St. John 1985; Tunison *et al.* 1991; Wagner *et al.* 1990). Six to eight populations are currently known—one to three in the Puu Waawaa region of Hualalai on State-leased and private land; two in the Kaloko/Kaloao area on private land; two in the Kapua/Kahuku area on private land; and one on Holei Pali within HVNP. These populations total 250 to 300 individuals (Char 1987; HHP 1991h1, 1991h2, 1991h4, 1991h5, 1993f3, 1993f4; HPCC 1991g, 1992d, 1993b; Nagata 1984; Nishida 1993; Tunison *et al.* 1991; M. Bruegmann, *in litt.*, 1994; Samuel Gon III, HHP, *in litt.*, 1992; J. Lau, *in litts.*, 1990 and 1993; L. Pratt, *in litt.*, 1994; Clyde Imada, Bishop Museum, pers. comm., 1994). The only populations that are successfully reproducing are at Kaloko and Holei Pali (M. Bruegmann, *in litt.*, 1994).

Pleomele hawaiiensis typically grows on open aa lava in diverse Lowland Dry Forests at elevations between 300 and 800 m (1,000 and 2,700 ft) (HHP 1991h1, 1991h2, 1991h4, 1991h5, 1993f3, 1993f4; HPCC 1991g, 1992d, 1993b; Wagner *et al.* 1990; S. Gon, *in litt.*, 1992; J. Lau, *in litts.*, 1990 and 1993). Associated taxa include 'ohi'a, lama, mamane, *Sydrax odoratum* (alahe'e), huehue, naio, olopua, *Nototrichium sandwicense* (kulu'i), *Sida fallax* ('ilima), *Erythrina sandwicensis* (wiliwili), *Santalum* sp. ('iliahi), *Osteomeles anthyllidifolia* ('ulei), and fountain grass as a dominant ground cover, as well as three federally endangered species (*Caesalpinia kavaiensis* (uhiuhi), *Colubrina oppositifolia* (kauila), and *Nothocestrum breviflorum* (ai'ae)), proposed endangered *Neraudia ovata*, and other species of concern, including *Capparis sandwichiana* (pua pilo) and *Bidens micrantha* ssp. *ctenophylla* (ko'oko'olau) (Char 1987; HHP 1991h2, 1991h4 to 1991h6; HPCC 1991g, 1992d, 1993b; M. Bruegmann, *in litt.*, 1994; S. Gon, *in litt.*, 1992; J. Lau, *in litts.*, 1990 and 1993).

The major threats to *Pleomele hawaiiensis* are habitat conversion associated with residential and recreational development; habitat destruction by cattle, pigs, sheep, and goats (*Capra hircus*); fire (which destroyed a large portion of one Puu Waawaa population in 1986); competition from alien plant taxa such as fountain grass, koa haole, Christmas berry, and lantana; habitat change due to volcanic activity; and the lack of reproduction in all but two populations (Char 1987; HHP 1991h2, 1991h4, 1991h5; HPCC 1991g, 1992d, 1993b; Nagata 1984; M. Bruegmann, *in litt.*, 1994; J. Lau, *in litt.*, 1990; C. Imada, pers. comm., 1994).

Donald Hodel (1985) described *Pritchardia schattaueri* based on a specimen collected from plants discovered by George Schattauer in 1957 (M. Bruegmann, *in litt.*, 1994).

Pritchardia schattaueri, of the palm family (Arecaceae), is a large palm 30 to 40 m (100 to 130 ft) tall with a gray, longitudinally grooved trunk 30 cm (12 in) in diameter. Leaves form a spherical crown and are sometimes persistent after death. Leaves are fan-shaped, glossy green with small brown scales on

the lower surface, up to 3.6 m (11.8 ft) long and 1.7 m (5.6 ft) wide. Flowers are on two- to four-branched inflorescences with a main stalk 1.2 to 1.75 m (3.9 to 5.7 ft) long and individual branches 1 to 1.4 m (3.2 to 4.6 ft) long. The five bracts are lance-shaped, the lowest one 60 cm (2 ft) long, and the uppermost one 20 to 30 cm (9 to 12 in) long. The calyx is green, shading to yellow-green at the tip, three-toothed, 6 mm (0.2 in) long, and 4 mm (0.1 in) wide. Fruits are round or pear-shaped, black with brown spots when mature, 3 to 5 cm (1.2 to 2 in) long, and 3 to 4 cm (1.2 to 1.6 in) wide. This species differs from its closest relative, *Pritchardia beccariana*, by its slender inflorescence branches, more deeply divided leaves, and pendulous rather than stiff tips of the leaf blade segments (Hodel 1985, Read and Hodel 1990).

Pritchardia schattaueri is known from 12 individuals in 3 locations in South Kona on the island of Hawaii, on privately owned land. Ten individuals are known from a forest partially cleared for pasture in Hoomau. Two other individuals are found singly at the edge of a macadamia nut farm and in an area owned by a development company. Ten seedlings have been planted near the macadamia farm individual (HHP 1991i1 to 1991i3; HPCC 1992e1, 1992e2; Hodel 1980, 1985; M. Bruegmann, *in litt.*, 1994).

Pritchardia schattaueri grows in 'ohi'a-dominated Lowland Mesic Forest, at elevations between 600 and 800 m (1,970 to 2,600 ft) (HHP 1991i1 to 1991i3; HPCC 1992e1, 1992e2; Hodel 1985; Read and Hodel 1990). Associated taxa include 'ohi'a, olopua, papala, tree ferns, kolea, and *Pittosporum* sp. (ho'awa) (HHP 1991i2; HPCC 1992e1; M. Bruegmann, *in litt.*, 1994).

The major threats to *Pritchardia schattaueri* are grazing and trampling by cattle and feral pigs; competition from alien plant taxa such as strawberry guava, common guava, Kikuyu grass, Christmas berry, and thimbleberry; seed predation by rats; residential and commercial development; habitat change due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing populations and individuals and the lack of successful regeneration (HHP 1991i1 to 1991i3; HPCC 1992e1, 1992e2; Hodel 1980, 1985; M. Bruegmann, *in litt.*, 1994).

First collected by the U.S. Exploring Expedition of 1840 and 1841, and considered a new but unnamed variety of *Sicyos cucumerinus* by Gray in 1854, *Sarx alba* was named by St. John in 1978, creating *Sarx* as a new genus (St. John 1978, Telford 1990). Ian Telford returned this entity to the genus *Sicyos*, maintaining the species as *Sicyos alba* (Telford 1989).

Sicyos alba, of the gourd family (Cucurbitaceae), is an annual vine up to 20 m (65 ft) long, minutely hairy, and black-spotted. Leaves are pale, broadly heart-shaped, shallowly to deeply three- to five-lobed, 7 to 11 cm (2.8 to 4.3 in) long, and 9 to 12 cm (3.5 to 4.7 in) wide. Male and female flowers are borne in separate flower clusters on the same plant. Male flower clusters have main stalks 2.5 to 3.7 cm (1 to 1.5 in) long and individual flower stalks 2 to 4 mm (0.08 to 0.1 in) long. The male flowers are white, five-lobed, dotted with glands, and 2 to 2.5 mm (0.08 to 0.09 in) long. The female flower clusters have two to eight flowers, a main stalk 1 to 3.5 cm (0.4 to 1.4 in) long, and no stalks on the individual flowers. The flowers are white and four-lobed, with the lobes 1.7 to 2 mm (0.07 to 0.08 in) long. The fruit is white, fleshy, oblong, 29 to 32 mm (1.1 to 1.3 in) long, and 10 to 11 mm (about 0.4 in) wide. This species can be distinguished from its nearest relative, *Sicyos cucumerinus*, by its white fruit without bristles and ten or fewer female flowers per cluster (St. John 1978, Telford 1990).

Historically, *Sicyos alba* was found only on the island of Hawaii, from Mauna Kea, Kilauea, and the Puu Makaala area (HHP 1991j1 to 1991j4, St. John 1978). Today, the two known populations are restricted to Puu Makaala NAR and Olaa Forest Reserve, both on Stated-owned land in the Puna District (HHP 1991j1; HPCC 1991h, 1993c). The number of individuals fluctuates from year to year because this species is an annual. At last report, only one individual was growing at Puu Makaala NAR, but about 20 individuals are known from the Olaa population (HPCC 1993c; M. Bruegmann, *in litt.*, 1994; Steve Perlman, National Tropical Botanical Garden, pers. comm., 1994).

Sicyos alba typically grows in 'ohi'a- and tree fern-dominated Montane Wet Forests, at elevations between 975 and 1,130 m (3,200 to 3,720 ft) (HHP 1991j1; HPCC 1991h, 1993c; Telford 1990). Associated taxa include tree ferns, kawa'u, kanawao, ha'iwale, *Stenogyne* sp., kopiko, *Perrottetia sandwicensis* (olomea), olapa, ho'i'o, and *Cyanea tritomantha* (haha) (HHP 1991j1; HPCC 1991h, 1993c; M. Bruegmann, *in litt.*, 1994).

The major threats to *Sicyos alba* are habitat damage by feral pigs; trail clearing; competition from alien plant taxa such as banana poka, palmgrass, strawberry guava, and yellow Himalayan raspberry; habitat change due to volcanic activity; and a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals (HHP 1991j1; HPCC 1991h, 1993c).

Horace Mann described *Zanthoxylum dipetalum* in 1867, and Rock named a new variety *Zanthoxylum dipetalum* var. *tomentosum*, based on a specimen he collected at Puu Waawaa on Hualalai, on the island of Hawaii, in 1909 (Rock 1913). The specific epithet refers to the dense covering of soft hairs on the undersurface of the leaflets. Some authors have placed Hawaiian taxa in the genus *Fagara*, resulting in *F. dipetala* var. *tomentosa* (Stone *et al.* 1990). However, *Zanthoxylum dipetalum* var. *tomentosum* is maintained in the current treatment of the Hawaiian species (Stone *et al.* 1990).

Zanthoxylum dipetalum var. *tomentosum*, of the citrus family, is a thornless tree 4 to 15 m (13 to 49 ft) tall with a trunk up to 30 cm (12 in) in diameter. It has alternate leaves comprised of three to seven leathery, elliptical, gland-dotted, smooth-edged leaflets usually 6 to 36 cm (2.4 to 12 in) long and 2.5 to 13.5 cm (1 to 5.3 in) wide. The undersurface of the leaflets is densely covered with fine, short hairs, and the lowest pair of leaflets is often strongly reduced. The stalks of the side leaflets have one joint each, and the stalk of the terminal leaflet has two joints. Flowers are usually either male or female, and usually only one sex is found on a single tree. Clusters of 5 to 15 flowers, 9 to 18 mm (0.4 to 0.7 in) long, have a main flower stalk 10 to 40 mm (0.4 to 1.6 in) long and individual flower stalks 3 to 8 mm (0.1 to 0.3 in) long. Each flower has four broadly triangular sepals about 1 to 1.5 mm (0.04 to 0.06 in) long and two or four yellowish white petals, sometimes tinged with red, 6 to 10 mm (0.2 to 0.4 in) long. The fruit is an oval follicle (dry fruit that opens along one side) 15 to 33 mm (0.6 to 1.3 in) long, containing one black seed about 10 to 26 mm (0.4 to 1 in) long. This variety is distinguished from *Zanthoxylum dipetalum* var. *dipetalum* by the hairs on the undersurface of the leaflets. It is distinguished from other Hawaiian species of the genus by its reduced lower leaflets, the presence of only one joint on some of the leaflet stalks, and the large seeds (Rock 1913, Stone *et al.* 1990).

Only one population of *Zanthoxylum dipetalum* var. *tomentosum* has ever been known, located at Puu Waawaa on Hualalai, on the island of Hawaii (HHP 1993g, Rock 1913, Stone *et al.* 1990). Approximately 24 individuals are now

known, scattered through the area (HHP 1993g; HPCC 1991i, 1993d; M. Bruegmann, *in litt.*, 1994; J. Giffin, *in litt.*, 1992; J. Lau, *in litt.*, 1992).

Zanthoxylum dipetalum var. *tomentosum* grows in degraded 'ohi'a-dominated Montane Mesic Forest, often on aa lava, at elevations between 915 and 1,040 m (3,000 and 3,400 ft) (M. Bruegmann, *in litt.*, 1994). Associated species include mamane, lama, 'ala'a, 'iliahi, 'ohe, kolea, and kopiko (HHP 1993g; HPCC 1993d).

Threats to *Zanthoxylum dipetalum* var. *tomentosum* include browsing, trampling, and habitat disturbance by cattle, feral pigs, and sheep; competition from alien plant species such as Kikuyu grass, fountain grass, lantana, koa haole, and *Grevillea robusta* (silk oak); habitat change due to volcanic activity; and fire (HHP 1993g; HPCC 1993d; M. Bruegmann, *in litt.*, 1994; J. Lau, *in litt.*, 1992). In addition, the species is threatened by a risk of extinction from naturally occurring events and/or reduced reproductive vigor due to the small number of existing individuals in only one population.

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Endangered Species Act (16 U.S.C. 1533), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. In that document, *Clermontia drepanomorpha, Cyanea platyphylla (as C. bryanii), Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Melicope zahlbruckneri* (as *Pelea zahlbruckneri*), and *Neraudia ovata* were considered to be endangered. *Zanthoxylum dipetalum* var. *tomentosum* was considered to be threatened. On July 1, 1975, the Service published a notice in the Federal Register (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant species named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including all of the above species considered to be endangered. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, Federal Register publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, Federal Register publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice in the Federal Register (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), February 21, 1990 (55 FR 6183), and September 30, 1993 (58 FR 51144). All of the taxa in this proposal (including synonymous taxa) have at one time or another been considered either Category 1 or Category 2 candidates for Federal listing. Category 1 species are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. Category 2 species are those for which listing as endangered or threatened is possibly appropriate, but for which sufficient data on biological vulnerability and threats are not currently available to support proposed rules. *Hibiscadelphus giffardianus* and *Hibiscadelphus hualalaiensis* were considered Category 1 candidates on all five notices of review; *Clermontia drepanomorpha*, *Neraudia ovata*, and *Pleomele hawaiiensis* (including the synonym *Dracaena hawaiiensis*) were considered Category 1 species in the 1980, 1983, and 1985 notices and Category 2 species in the 1990 and 1993 notices. *Cyanea platyphylla* (as *Cyanea bryanii* and *Cyanea fernaldii*) was considered a Category 1 species in the 1980, 1983, and 1985 notices, but was removed from consideration as a candidate in 1990 when *C. bryanii* and *C. fernaldii* were synonymized. The resulting taxon, *Cyanea platyphylla*, was thought to be more common than previous records indicated. Current information indicates that removing this taxon from consideration for listing was inappropriate. *Melicope zahlbruckneri* appeared as a Category 1 candidate in the 1985 notice (as *Pelea zahlbruckneri*). This taxon was transferred into the genus *Melicope* and its status was changed to Category 2 in the 1990 notice. *Pritchardia schattaueri* was considered a Category 2 species in the 1985, 1990, and 1993 notices. *Phyllostegia racemosa*, *Phyllostegia velutina*, *Phyllostegia warshaueri*, *Sicyos alba*, and *Zanthoxylum dipetalum* var. *tomentosum* all first appeared in the 1990 notice, and again in 1993, as Category 2 species.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions that present substantial information indicating the petitioned action may be warranted within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these taxa was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the Service to consider the petition as having been resubmitted, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993. Publication of the present proposed rule constitutes the final such finding for these taxa.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered species due to one or more of the five factors described in section 4(a)(1). The threats facing these 13 taxa are summarized in Table 1.

TABLE 1.—SUMMARY OF THREATS

Species	Alien mammals					Disease/insects	Alien plants	Fire	Natural disasters	Human impacts	Limited numbers*
	Cattle	Pigs	Rats	Sheep	Goats						
Clermontia drepanomorpha		X	X				X			X	X1,3
Cyanea platyphylla		P	P				X				X1,2
Hibiscadelphus giffardianus			X			X	X	X	X		X1,3,4
Hibiscadelphus hualalaiensis	P	P	X	X			X	X	X	X	X1,3,4
Melicope zahlbruckneri			P			X	X		X		X1,3
Neraudia ovata						X	X		X	X	X1,2
Phyllostegia racemosa	X	X					X		X	X	X1,3
Phyllostegia velutina	X	X		X			X	X	X	X	X1,3
Phyllostegia warshaueri		X					X			X	X1,2
Pleomele hawaiiensis	X	X		X	X		X	X	X	X	
Pritchardia schattaueri	X	X	X			P	X		X	X	X1,3
Sicyos alba		X					X		X	X	X1,2
Zanthoxylum dipetalum var. *tomentosum*	X	X		X			X	X	X	X	X1,3

Key: X = Immediate and significant threat. P = Potential threat. * = No more than 100 known individuals and/or no more than 5 known populations. 1 = No more than 5 known populations. 2 = No more than 10 known individuals. 3 = No more than 100 known individuals. 4 = All original wild populations extinct; planted individuals only.

These factors and their application to *Clermontia drepanomorpha* Rock ('oha wai), *Cyanea platyphylla* (A. Gray) Hillbr. (haha), *Hibiscadelphus giffardianus* Rock (hau kuahiwi), *Hibiscadelphus hualalaiensis* Rock (hau kuahiwi), *Melicope zahlbruckneri* Rock (alani), *Neraudia ovata* Gaud. (no common name (NCN)), *Phyllostegia racemosa* Benth. (kiponapona), *Phyllostegia velutina* (Sherff) St. John (NCN), *Phyllostegia warshaueri* St. John (NCN), *Pleomele hawaiiensis* Degener and I. Degener (hala pepe), *Pritchardia schattaueri* Hodel (loulu), *Sicyos alba* (St. John) Telford ('anunu), and *Zanthoxylum dipetalum* var. *tomentosum* Rock (a'e) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitats of the plants included in this proposed rule have undergone extreme alteration because of past and present land management practices, including deliberate alien animal and plant introductions; agricultural, commercial, and urban development; and recreational use. Natural disturbances such as volcanic activity also destroy habitat and can have a significant effect on small populations of plants. Competition with alien plants as well as destruction of plants and modification of habitat by introduced animals are the primary threats facing all of taxa being proposed. (See Table 1.).

Beginning with Captain James Cook in 1792, early European explorers introduced livestock, which became feral, increased in number and range, and caused significant changes to the natural environment of Hawaii. The 1848 provision for land sales to individuals allowed large-scale agricultural and ranching ventures to begin. So much land was cleared for these enterprises that climatic conditions began to change, and the amount and distribution of rainfall were altered (Wenkam 1969). Plantation owners supported reforestation programs which resulted in many alien trees being introduced in the hope that watersheds could be conserved.

Past and present activities of introduced alien mammals are the primary factors in altering and degrading vegetation and habitats on the island of Hawaii where populations of the proposed species occur. Feral ungulates trample and eat native vegetation and disturb and open areas. This causes erosion and allows the entry of alien plant taxa (Cuddihy and Stone 1990, Wagner *et al.* 1990). Eleven taxa in this proposal are directly threatened by habitat degradation resulting from introduced ungulates: six taxa are threatened by cattle, one taxon by goats, ten by pigs, and four by sheep.

Cattle (*Bos taurus*), the wild progenitor of which was native to Europe, northern Africa, and southwestern Asia, were introduced to the Hawaiian Islands in 1793. Large feral herds developed as a result of restrictions on killing cattle decreed by King Kamehameha I. While small cattle ranches were developed on Kauai, Oahu, and West Maui, very large ranches of tens of thousands of acres were created on East Maui and Hawaii. Much of the land used in these private enterprises was leased from the State or was privately owned and considered Forest Reserve and/or Conservation District land. Feral cattle can presently be found on the island of Hawaii, and ranching is still a major commercial activity there. Hunting of feral cattle is no longer allowed in Hawaii (Hawaii Department of Land and Natural Resources (DLNR) 1985). Cattle eat native vegetation, trample roots and seedlings, cause erosion, create disturbed areas into which alien plants invade, and spread seeds of alien plants in their feces and on their bodies. The forest in areas grazed by cattle becomes degraded to grassland pasture, and plant cover is reduced for many years following removal of cattle from an area. Several alien grasses and legumes purposely introduced for cattle forage have become noxious weeds (Cuddihy and Stone 1990, Tomich 1986).

The habitats of many of the plants being proposed were degraded in the past by feral cattle, and this has had effects which still persist. Some taxa in this proposed rule that are still directly affected by cattle include: *Phyllostegia racemosa, Phyllostegia velutina, Pleomele hawaiiensis, Pritchardia schattaueri,* and *Zanthoxylum dipetalum* var. *tomentosum*. The *Hibiscadelphus hualalaiensis* site is currently fenced to exclude cattle and pigs, but these alien mammals constitute a potential threat to this taxon if the fencing is not monitored and maintained (HHP 1991i2, 1993g; HPCC 1991e, 1991i, 1992d, 1992e1, 1993b, 1993d; Hodel 1980, 1985; Pratt and Cuddihy 1990; M. Bruegmann, *in litt.*, 1994; J. Jeffrey, pers. comm., 1994).

Pigs (*Sus scrofa*) are originally native to Europe, northern Africa, Asia Minor,

and Asia. European pigs, introduced to Hawaii by Captain James Cook in 1778, became feral and invaded forested areas, especially wet and mesic forests and dry areas at high elevations. They are currently present on Kauai, Oahu, Molokai, Maui, and Hawaii and inhabit rain forests and grasslands. Pig hunting is allowed on all islands either year-round or during certain months, depending on the area (Hawaii DLNR n.d., 1985). While rooting in the ground in search of the invertebrates and plant material they eat, feral pigs disturb and destroy vegetative cover, trample plants and seedlings, and threaten forest regeneration by damaging seeds and seedlings. They disturb soil substrates and cause erosion, especially on slopes. Alien plant seeds are dispersed in their hooves and coats as well as through their digestive tracts, and the disturbed soil is fertilized by their feces, helping establish these plants (Cuddihy and Stone 1990, Smith 1985, Stone 1985, Tomich 1986, Wagner *et al.* 1990). Feral pigs pose an immediate threat to one or more populations of the following proposed taxa: *Clermontia drepanomorpha, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Pleomele hawaiiensis, Pritchardia schattaueri, Sicyos alba,* and *Zanthoxylum dipetalum* var. *tomentosum*. The *Cyanea platyphylla* population is currently fenced to exclude pigs and the *Hibiscadelphus hualalaiensis* site to exclude pigs and cattle, but these alien mammals still pose a potential threat to these taxa if fencing is not monitored and maintained (Clarke *et al.* 1983; HHP 1991e1, 1991e4, 1991j1; HPCC 1990b, 1991a, 1991f, 1991h, 1992a to 1992d, 1993a, 1993c; Pratt and Cuddihy 1990; M. Bruegmann, *in litt.*, 1994; J. Jeffrey and L. Pratt, pers. comms., 1994).

Goats (*Capra hircus*), originally native to the Middle East and India, were successfully introduced to the Hawaiian Islands in 1792, and currently there are populations on Kauai, Oahu, Molokai, Maui, and Hawaii. On Hawaii, goats damage low-elevation dry forest, montane parkland, subalpine woodlands, and alpine grasslands. Goats are managed in Hawaii as a game animal, but many herds populate inaccessible areas where hunting has little effect on their numbers. Goat hunting is allowed year-round or during certain months, depending on the area (Hawaii DLNR n.d., 1985). Goats browse on introduced grasses and native plants, especially in drier and more open ecosystems. They also trample roots and seedlings, cause erosion, and promote the invasion of alien plants. They are able to forage in extremely rugged terrain and have a high reproductive capacity (Cuddihy and Stone 1990, Culliney 1988, Tomich 1986). *Pleomele hawaiiensis* is currently threatened by goats (Char 1987, HPCC 1993b).

Sheep (*Ovis aries*) have become established on the island of Hawaii (Tomich 1986) since their introduction almost 200 years ago (Cuddihy and Stone 1990). Sheep roam the upper elevation dry forests of Hualalai (above 1,000 m (3,300 ft)), causing damage similar to that of goats (Stone 1985). Sheep have decimated vast areas of native forest and shrubland on Mauna Kea and continue to do so as a managed game species. Sheep threaten the habitat of the following proposed plant species: *Hibiscadelphus hualalaiensis, Phyllostegia velutina, Pleomele hawaiiensis,* and *Zanthoxylum dipetalum* var. *tomentosum* (Cuddihy and Stone 1990; Stone 1985; M. Bruegmann, *in litt.*, 1994).

Land development for housing and commercial activities threatens *Neraudia ovata, Pleomele hawaiiensis,* and *Pritchardia schattaueri* since individuals of these species grow on private land that may be developed (Char 1987; HHP 1991j1; HPCC 1992e2; Nagata 1984; M. Bruegmann, *in litt.*, 1994). In addition, the populations of *Phyllostegia velutina* within the Kulani Correctional Facility are potentially threatened by expansion of the prison facilities (M. Bruegmann, *in litt.*, 1994).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Unrestricted collecting for scientific or horticultural purposes and excessive visits by individuals interested in seeing rare plants are potential threats to all of the proposed taxa. This is a threat to *Pleomele hawaiiensis* because little regeneration is occurring in the wild. The other 12 taxa in this proposed rule are also threatened by overcollection, since each taxon comprises 1 to 3 populations and 100 or fewer known individuals, or exist only as cultivated individuals. Any collection of whole plants or reproductive parts of any of these species could cause an adverse impact on the gene pool and threaten the survival of the species.

C. *Disease or predation.* Pigs, cattle, goats, or sheep have been reported in areas where populations of most of the proposed taxa occur. As the taxa are not known to be unpalatable to these ungulates, predation is a probable threat where those animals have been reported, potentially affecting the following taxa: *Clermontia drepanomorpha, Cyanea platyphylla, Hibiscadelphus hualalaiensis, Neraudia ovata, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Pleomele hawaiiensis, Pritchardia schattaueri, Sicyos alba,* and *Zanthoxylum dipetalum* var. *tomentosum*. The lack of seedling production or survival in two of the taxa (*Pleomele hawaiiensis* and *Pritchardia schattaueri*) and the occurrence of some populations or taxa only in areas inaccessible to ungulates seem to indicate the effect that browsing mammals, especially cattle and goats, have had in restricting the distribution of these plants.

Of the four species of rodents which have been introduced to the Hawaiian Islands, the species with the greatest impact on the native flora and fauna is probably *Rattus rattus* (roof or black rat), which now occurs on all the main Hawaiian Islands around human habitations, in cultivated fields, and in dry to wet forests. Roof rats, and to a lesser extent *Mus musculus* (house mouse), *R. exulans* (Polynesian rat), and *R. norvegicus* (Norway rat), eat the fruits of some native plants, especially those with large, fleshy fruits. Many native Hawaiian plants produce their fruit over an extended period of time, and this produces a prolonged food supply which supports rodent populations (Cuddihy and Stone 1990). Rats damage fruit of *Pritchardia schattaueri* and fruits, flowers, and bark of *Hibiscadelphus giffardianus* and *Hibiscadelphus hualalaiensis* (Baker and Allen 1978; HPCC 1992e2; M. Bruegmann, *in litt.*, 1994; L. Pratt, pers. comm., 1994). Rats probably feed on the fruits of *Cyanea platyphylla* (M. Bruegmann, *in litt.*, 1994). Girdling by rats has been observed for *Clermontia drepanomorpha* (Bruegmann 1990).

Sophonia rufofascia (two-spotted leafhopper) is a recently introduced insect that causes feeding damage on leaves, typically in the form of stippling and yellowing. In addition to mechanical feeding damage, this insect may introduce a plant virus. It is suspected of causing severe dieback of the native fern *Dicranopteris linearis* (uluhe) and economic damage to crops and ornamental plants in Hawaii. The two-spotted leafhopper is a threat to *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri* (M. Bruegmann, *in litt.*, 1994; Adam Asquith, USFWS, pers. comm., 1994).

The native plant bug, *Hyalopeplus pellucidus*, was found feeding and breeding on *Hibiscadelphus giffardianus*. Leaf yellowing is caused by this insect, which has been known to achieve large populations and cause economic damage to some crops (M.

Bruegmann, *in litt*., 1994; A. Asquith, pers. comm., 1994).

Aleurodicus dispersus (spiralling whitefly) was first collected on Oahu in 1978 (Nakahara 1981). Spiralling whitefly is a threat to *Neraudia ovata* (M. Bruegmann, *in litt.*, 1994).

Some species of *Pritchardia* are known to be susceptible to lethal yellowing, which is a bacterium-like organism producing disease in many palms. This disease is not yet reported in Hawaii, but if it were ever accidentally introduced on plant material brought into the State, it would be a potential threat to *Pritchardia schattaueri*. In addition, cultivated *Pritchardia* specimens in areas outside Hawaii may be affected by the disease (Hull 1980).

D. *The inadequacy of existing regulatory mechanisms.* Hawaii's Endangered Species Act states—''Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the [Federal] Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *'' (Hawaii Revised Statutes (HRS), sect. 195D–4(a)). Therefore, Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking of endangered plants in the State and encourages conservation by State agencies (HRS, sect. 195D–4 and 5).

None of the 13 proposed taxa are presently listed as an endangered species by the State of Hawaii. Seven of the 13 proposed taxa have populations located on privately owned land. The following taxa occur exclusively on State land—*Cyanea platyphylla*, *Hibiscadelphus hualalaiensis*, and *Zanthoxylum dipetalum* var. *tomentosum*. Two of these taxa, *Hibiscadelphus hualalaiensis* and *Zanthoxylum dipetalum* var. *tomentosum*, are found exclusively on State land leased to a private ranch. Four of the taxa (*Clermontia drepanomorpha*, *Cyanea platyphylla*, *Phyllostegia velutina*, and *Sicyos alba*) have one or more populations located in State NARs or a State wildlife sanctuary, which have rules and regulations for the protection of resources (Hawaii DLNR 1981; HRS, sects. 183D–4, 184–5, 195–5, and 195–8). However, most of these areas still support large populations of pigs maintained for sport hunting (M. Bruegmann, *in litt.*, 1994).

One or more populations of 9 of the 13 proposed taxa are located on land classified within conservation districts and owned by the State of Hawaii or private companies or individuals. Regardless of the owner, lands in these districts, among other purposes, are regarded as necessary for the protection of endemic biological resources and the maintenance or enhancement of the conservation of natural resources. Activities permitted in conservation districts are chosen by considering how best to make a multiple use of the land (HRS, sect. 205–2). Some uses, such as maintaining animals for hunting, are based on policy decisions, while others, such as preservation of endangered species, are mandated by State laws. Requests for amendments to district boundaries or variances within existing classifications can be made by government agencies and private landowners (HRS, sect. 205–4). Before decisions about these requests are made, the impact of the proposed reclassification on ''preservation or maintenance of important natural systems or habitat'' (HRS, sects. 205–4, 205–17) as well as the maintenance of natural resources is required to be taken into account (HRS, sects. 205–2, 205–4). For any proposed land use change which will occur on county or State land, will be funded in part or whole by county or State funds, or will occur within land classified as conservation district, an environmental assessment is required to determine whether or not the environment will be significantly affected (HRS, chapt. 343). If it is found that an action will have a significant effect, preparation of a full Environmental Impact Statement is required. Hawaii environmental policy, and thus approval of land use, is required by law to safeguard ''* * * the State's unique natural environmental characteristics * * *'' (HRS, sect. 344–3(1)) and includes guidelines to ''Protect endangered species of individual plants and animals * * *'' (HRS, sect. 344–4(3)(A)). Federal listing, because it automatically invokes State listing, would also trigger these other State regulations protecting the plants.

State laws relating to the conservation of biological resources allow for the acquisition of land as well as the development and implementation of programs concerning the conservation of biological resources (HRS, sect. 195D–5(a)). The State also may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, sect. 195D–5(c)). If listing were to occur, funds for these activities could be made available under section 6 (State Cooperative Agreements) of the Federal Endangered Species Act. The Hawaii DLNR is mandated to initiate changes in conservation district boundaries to include ''the habitat of rare native species of flora and fauna within the conservation district'' (HRS, sect. 195D–5.1). However, despite the existence of various State laws and regulations which give protection to Hawaii's native plants, their enforcement is difficult due to limited funding and personnel. Listing of these 13 plant species would trigger State listing under Hawaii's Endangered Species Act and supplement the protection available under other State laws. The Federal Act would offer additional protection to these species. For example, if they were to be listed as endangered, it would be a violation of the Act for any person to remove, cut, dig up, damage, or destroy any such plant in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

Although two species, *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri*, are restricted to Federal land within HVNP and are actively managed by the Park, they are still threatened with extinction from naturally occurring events. *Hibiscadelphus giffardianus* is no longer extant in the wild, and is known only from the 24 individuals that have been replanted into original habitat by the Park. *Melicope zahlbruckneri* is known only from one population of 30 to 35 individuals. Both of these species are threatened by the two-spotted leafhopper, an introduced insect that is spreading throughout the Hawaiian Islands, may reach epidemic proportions if not controlled, and for which there is currently no known control.

E. *Other natural or manmade factors affecting its continued existence.* The small numbers of populations and individuals of most of these taxa increase the potential for extinction from naturally occurring events. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known extant population. This constitutes a major threat to 12 of the 13 taxa being proposed. (See Table 1.) Five of the proposed taxa, *Cyanea platyphylla, Melicope zahlbruckneri, Neraudia ovata, Phyllostegia warshaueri,* and *Zanthoxylum dipetalum* var. *tomentosum*, are known from a single population. Five other proposed taxa, *Clermontia drepanomorpha, Phyllostegia racemosa, Phyllostegia velutina, Pritchardia schattaueri,* and *Sicyos alba*, are known from only two to five populations.

Twelve of the proposed taxa are estimated to number no more than 100 known individuals. Two of these taxa, *Cyanea platyphylla* and *Neraudia ovata*, number no more than 10 known individuals, and one, *Phyllostegia warshaueri*, is known from only one individual. Two taxa, *Hibiscadelphus giffardianus* and *Hibiscadelphus hualalaiensis*, are extinct in the wild and are known only from cultivated material.

One or more of 21 taxa of introduced plants threaten all 13 of the proposed taxa. The original native flora of Hawaii consisted of about 1,000 species, 89 percent of which were endemic. Of the total native and naturalized Hawaiian flora of 1,817 species, 47 percent were introduced from other parts of the world and nearly 100 species have become pests (Wagner *et al.* 1990). Naturalized, introduced plant taxa compete with native plants for space, light, water, and nutrients (Cuddihy and Stone 1990). Some of these taxa were brought to Hawaii by various groups of people, including the Polynesian immigrants, for food or cultural reasons. Plantation owners, alarmed at the reduction of water resources for their crops caused by the destruction of native forest cover by grazing feral animals, supported the introduction of alien tree species for reforestation. Ranchers intentionally introduced pasture grasses and other species for agriculture, and sometimes they inadvertently introduced weed seeds as well. Other plants were brought to Hawaii for their potential horticultural value (Cuddihy and Stone 1990, Wenkam 1969).

Lantana camara (lantana), brought to Hawaii as an ornamental plant, is an aggressive, thicket-forming shrub which can now be found on all of the main islands in mesic forests, dry shrublands, and other dry, disturbed habitats (Wagner *et al.* 1990). Lantana threatens *Pleomele hawaiiensis* and the only known populations of *Neraudia ovata* and *Zanthoxylum dipetalum* var. *tomentosum* (HHP 1993c2; HPCC 1992a, 1993b, 1993d; M. Bruegmann, *in litt.*, 1994). *Leucaena leucocephala* (koa haole), a naturalized shrub which is sometimes the dominant species in low elevation, dry, disturbed areas on all of the main Hawaiian islands, threatens *Neraudia ovata*, *Pleomele hawaiiensis*, and *Zanthoxylum dipetalum* var. *tomentosum* (Geesnick *et al.* 1990; HPCC 1993d; Nishida 1993; M. Bruegmann, *in litt.*, 1994).

Passiflora mollissima (banana poka), a woody vine, poses a serious problem to mesic forests on Kauai and Hawaii by covering trees, reducing the amount of light which reaches trees as well as understory, and causing damage and death to trees by the weight of the vines. Animals, especially feral pigs, eat the fruit and distribute the seeds (Cuddihy and Stone 1990, Escobar 1990). Banana poka threatens *Phyllostegia racemosa* and *Sicyos alba* (HPCC 1993c; J. Jeffrey, pers. comm., 1994). *Passiflora ligularis* (sweet granadilla) was first collected in Hawaii in 1909, and has since spread to mesic and wet areas of Kauai, Oahu, Lanai, and Hawaii (Escobar 1990). This taxon threatens the only known population of *Cyanea platyphylla* (HPCC 1991a). After escaping from cultivation, *Schinus terebinthifolius* (Christmas berry) became naturalized on most of the main Hawaiian Islands and threatens *Pleomele hawaiiensis* and *Pritchardia schattaueri* and the only known population of *Neraudia ovata* (Nishida 1993; Wagner *et al.* 1990; M. Bruegmann, *in litt.*, 1994). *Juncus planifolius* is a perennial rush which has naturalized in moist, open, disturbed depressions on margins of forests and in bogs on Kauai, Oahu, Molokai, Maui, and Hawaii (Coffey 1990). This taxon is a threat to the only known individual of *Phyllostegia warshaueri* (M. Bruegmann, *in litt.*, 1994).

Psidium cattleianum (strawberry guava), an invasive shrub or small tree native to tropical America, has become naturalized on all of the main Hawaiian islands. Like Christmas berry, strawberry guava is capable of forming dense stands that exclude other plant taxa (Cuddihy and Stone 1990) and is dispersed mainly by feral pigs and fruit-eating birds (Smith 1985). This alien plant grows primarily in mesic and wet habitats and provides food for several alien animal species, including feral pigs and game birds, which disperse the plant's seeds through the forest (Smith 1985, Wagner *et al.* 1985). Strawberry guava is considered one of the greatest alien plant threats to Hawaii's rain forests and is known to pose a direct threat to *Pritchardia schattaueri* and *Sicyos alba* and the only known populations of *Cyanea platyphylla* and *Phyllostegia warshaueri* (Cuddihy *et al.* 1982; HHP 1991g2; HPCC 1991a, 1992e1; M. Bruegmann, *in litt.*, 1994).

Psidium guajava (common guava) was brought to Hawaii and has become widely naturalized on all the main islands, forming dense stands in disturbed areas. Common guava invades disturbed sites, forming dense thickets in dry as well as mesic and wet forests (Smith 1985, Wagner *et al.* 1990). This species also provides food for several alien animal species, including feral pigs and game birds, which disperse the plant's seeds through the forest (Smith 1985, Wagner *et al.* 1985). Common guava threatens *Pritchardia schattaueri* and the only known population of *Cyanea platyphylla* (Cuddihy *et al.* 1982; HPCC 1991a6, 1991a9; HPCC 1992e1; M. Bruegmann, *in litt.*, 1994).

A recent introduction to the Hawaiian Islands, *Rubus ellipticus* (yellow Himalayan raspberry) is rapidly becoming a major weed pest in wet forests, pastures, and other open areas on the island of Hawaii. It forms large thorny thickets and displaces native plants. Its ability to invade the understory of wet forests enables it to fill a niche presently unoccupied by any other major wet forest weed in Hawaii (Cuddihy and Stone 1990). This has resulted in an extremely rapid population expansion of this alien plant in recent years. *Phyllostegia velutina* and *Sicyos alba* are threatened by yellow Himalayan raspberry (HPCC 1990b, 1993c). A related species, *Rubus rosifolius* (thimbleberry), was introduced from Asia in the 1880s to the island of Hawaii and is now found in disturbed mesic and wet forests throughout the Hawaiian Islands. Although it is less aggressive than other alien species of *Rubus*, thimbleberry can become very abundant locally, especially in areas disturbed by pigs (Cuddihy and Stone 1990, Wagner *et al.* 1990). This species is a threat to *Clermontia drepanomorpha* and *Pritchardia schattaueri* and the only known populations of *Cyanea platyphylla* and *Phyllostegia warshaueri* (Cuddihy *et al.* 1982; HHP 1991g2; HPCC 1991a, 1993a; M. Bruegmann, *in litt.*, 1994).

Grevillea robusta (silk oak) was extensively planted in Hawaii for timber and is now naturalized on most of the main islands (Smith 1985, Wagner *et al.* 1990). Silk oak threatens the only known population of *Zanthoxylum dipetalum* var. *tomentosum* (HPCC 1993d). *Tibouchina herbacea* (glorybush) first became established on the island of Hawaii in the late 1970s and, by 1982 was collected in Lanilili on West Maui (Almeda 1990). Although the disruptive potential of this alien plant is not fully known, glorybush appears to be invading mesic and wet forests of Hawaii, and is considered a threat to the only known individual of *Phyllostegia warshaueri* (HPCC 1992c).

Several hundred species of grasses have been introduced to the Hawaiian Islands, many for animal forage. Of the approximately 100 grass species which have become naturalized, 8 species threaten 11 of the 13 proposed taxa. *Anthoxanthum odoratum* (sweet vernalgrass) is a perennial, tufted grass which has naturalized in pastures,

disturbed areas in wet forest, and sometimes in subalpine shrubland on Molokai, Maui, and Hawaii and is a threat to *Phyllostegia racemosa* (O'Connor 1990; J. Jeffrey, pers. comm. 1994). The perennial grass *Paspalum conjugatum* (Hilo grass), naturalized in moist to wet disturbed areas on most Hawaiian Islands, produces a dense ground cover, even on poor soil, and threatens the only known populations of *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri* (Cuddihy and Stone 1990; O'Connor 1990; Smith 1985; L. Pratt, pers. comm., 1994). A related species, *Paspalum dilatatum* (Dallis grass) has become naturalized and common in wet to dry grassland, fields, and roadsides on most Hawaiian Islands, and also threatens *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri* (O'Connor 1990; L. Pratt, pers. comm., 1994). *Ehrharta stipoides* (meadow ricegrass) is naturalized in openings in wet forest and other moist, shaded sites on Oahu, Maui, and Hawaii (O'Connor 1990). Meadow ricegrass is the third grass species to threaten *Hibiscadelphus giffardianus* and *Melicope zahlbruckneri.*

All three of these grass species prevent seedling establishment of the two proposed species (L. Pratt, pers. comm., 1994).

Pennisetum clandestinum (Kikuyu grass), an aggressive perennial grass introduced to Hawaii as a pasture grass, withstands trampling and grazing and has naturalized on four Hawaiian Islands in dry to mesic forest. It produces thick mats which choke out other plants and prevent their seedlings from establishing and has been declared a noxious weed by the U.S. Department of Agriculture (7 CFR 360) (O'Connor 1990, Smith 1985). Kikuyu grass is a threat to *Phyllostegia racemosa, Phyllostegia velutina, Pritchardia schattaueri,* and the only known populations of *Hibiscadelphus hualalaiensis* and *Zanthoxylum dipetalum* var. *tomentosum* (HHP 1992b, 1993c2, 1993g; HPCC 1992a; M. Bruegmann, *in litt.*, 1994; L. Lau, *in litt.*, 1990; J. Jeffrey, pers. comm., 1994).

Pennisetum setaceum (fountain grass) is a fire-adapted bunch grass that has spread rapidly over bare lava flows and open areas on the island of Hawaii since its introduction in the early 1900s. Fountain grass is particularly detrimental to Hawaii's dry forests because it is able to invade areas once dominated by native plants, where it interferes with plant regeneration, carries fires into areas not usually prone to fires, and increases the likelihood of fires (Cuddihy and Stone 1990, O'Connor 1990, Smith 1985). Fountain grass threatens *Phyllostegia velutina* and *Pleomele hawaiiensis* and the only known populations of *Neraudia ovata* and *Zanthoxylum dipetalum* var. *tomentosum* (HHP 1991h5, 1993g; HPCC 1990a, 1991c, 1993b; Nishida 1993; M. Bruegmann, *in litt.*, 1994; J. Lau, *in litt.*, 1990; C. Imada, pers. comm., 1994).

Setaria palmifolia (palmgrass), native to tropical Asia, has become naturalized in mesic valleys, wet forests, and along streams on Oahu, Lanai, Maui, and Hawaii. First collected in 1903, major infestations can now be found in the Olaa area and the windward side of the island of Hawaii (Cuddihy and Stone 1990, O'Connor 1990). Palmgrass is a threat to *Sicyos alba* and the only known individual of *Phyllostegia warshaueri* (HPCC 1993c; M. Bruegmann, *in litt.*, 1994). *Paspalum urvillei* (Vasey grass) is widespread in disturbed areas on the islands of Maui and Hawaii. It has invaded some rain forests and montane mesic communities, and is a threat to *Phyllostegia racemosa* and *Phyllostegia velutina* (Cuddihy and Stone 1990; HPCC 1992b; O'Connor 1990; J. Jeffrey, pers. comm., 1994).

Because Hawaiian plants were subjected to fire during their evolution only in areas of volcanic activity and from occasional lightning strikes, they are not adapted to recurring fire regimes and are unable to recover well following a fire. Alien plants are often better adapted to fire than native plant species, and some fire-adapted grasses have become widespread in Hawaii. Native shrubland and dry forest can thus be converted to land dominated by alien grasses. The presence of such species in Hawaiian ecosystems greatly increases the intensity, extent, and frequency of fire, especially during drier months or drought. Fire-adapted alien plant taxa can reestablish in a burned area, resulting in a reduction in the amount of native vegetation after each fire. Fire can destroy dormant seeds as well as plants, even in steep or inaccessible areas. Fires may result from natural causes, or they may be accidentally or purposely set by humans. Three fires have occurred in the Puu Waawaa/Kaupulehu dry forests on the slopes of Hualalai over the last ten years, and have destroyed habitat as well as individuals of many endangered and proposed endangered species, including *Pleomele hawaiiensis* (Cuddihy and Stone 1990; HHP 1991h4; HPCC 1992d, 1993b; J. Lau, *in litt.*, 1990). Fire is also a threat to *Phyllostegia velutina* and the only known populations of *Hibiscadelphus hualalaiensis* and *Zanthoxylum dipetalum* var. *tomentosum* (HPCC 1991i, 1992a, 1993c2; M. Bruegmann, *in litt.*, 1994).

Natural changes to habitat and substrate can result in the death of individual plants as well as the destruction of their habitat. This especially affects the continued existence of taxa or populations with limited numbers and/or narrow ranges and is often exacerbated by human disturbance and land use practices (See Factor A.). Two of the five volcanoes that make up the island of Hawaii, Kilauea and Mauna Loa, are active and a third, Hualalai, is dormant but may erupt again. Ten of the proposed taxa are in areas where volcanic activity could result in the destruction of all of the populations: *Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Melicope zahlbruckneri, Neraudia ovata, Phyllostegia velutina, Pleomele hawaiiensis, Pritchardia schattaueri, Sicyos alba,* and *Zanthoxylum dipetalum* var. *tomentosum*. Some populations of *Phyllostegia racemosa* are also threatened by volcanic activity.

People are more likely to come into contact with taxa which have populations near trails or roads or in recreational areas. Alien plants may be introduced into such areas as seeds on footwear, or people may cause erosion, trample plants, or start fires (Cuddihy and Stone 1990). The following proposed taxa have populations in recreational areas, close to roads or trails, or in areas where ranching or logging is occurring, and are potentially threatened by human disturbance: *Clermontia drepanomorpha, Hibiscadelphus hualalaiensis, Phyllostegia racemosa, Phyllostegia velutina, Sicyos alba,* and *Zanthoxylum dipetalum* var. *tomentosum* (Bruegmann 1990; Corn 1983; HHP 1991f1; HPCC 1991d, 1991h, 1992b; Pratt and Cuddihy 1990; Stemmermann 1987).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose this rule. Based on this evaluation, the preferred action is to propose listing these 13 plant taxa as endangered: *Clermontia drepanomorpha, Cyanea platyphylla, Hibiscadelphus giffardianus, Hibiscadelphus hualalaiensis, Melicope zahlbruckneri, Neraudia ovata, Phyllostegia racemosa, Phyllostegia velutina, Phyllostegia warshaueri, Pleomele hawaiiensis, Pritchardia schattaueri, Sicyos alba,* and *Zanthoxylum dipetalum* var. *tomentosum*. Twelve of the taxa proposed for listing number no more

than 100 individuals and are known from 5 or fewer populations. The 13 taxa are threatened by one or more of the following—habitat degradation and/or predation by cattle, pigs, goats, sheep, insects, and rats; competition from alien plants; fire and volcanic activity; human impacts; and lack of legal protection or difficulty in enforcing laws which are already in effect. Small population size and limited distribution make these taxa particularly vulnerable to extinction and/or reduced reproductive vigor from naturally occurring events. Because these 13 taxa are in danger of extinction throughout all or a significant portion of their ranges, they are proposed to be listed as endangered.

Critical habitat is not being proposed for the 13 taxa included in this rule, for reasons discussed in the ''Critical Habitat'' section of this proposal.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is listed as endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these 13 taxa. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. As discussed under Factor B, these taxa are threatened by overcollection, due to extremely low population size. The publication of precise maps and descriptions of critical habitat in the Federal Register and local newspapers as required in a proposal for critical habitat would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline. The listing of these taxa as endangered publicizes the rarity of the plants and, thus, can make these plants attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the major landowners have been notified of the location and importance of protecting the habitat of these taxa. Additional protection of the habitat of these taxa will be addressed through the recovery process and through the section 7 consultation process. The Service finds that designation of critical habitat for these 13 taxa is not prudent at this time. Such a designation would increase the degree of threat from vandalism, collecting, or other human activities and is unlikely to aid in the conservation of these taxa.

Available Conservation Measures

Conservation measures provided to taxa listed as endangered under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed for listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7 (a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any taxon that is proposed or listed as endangered and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. One or more populations of four of the proposed taxa are located on federally owned and/or managed land. Three taxa are located in HVNP and one taxon is found in Hakalau Forest National Wildlife Refuge. HVNP is actively managing Kipuka Puaulu to maintain *Melicope zahlbruckneri* and the cultivated plants of *Hibiscadelphus giffardianus* (Mountainspring 1985). Staff at Hakalau National Wildlife Refuge are monitoring *Phyllostegia racemosa* populations and controlling threats (J. Jeffrey, pers. comm., 1994).

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plant species. With respect to the 13 plant taxa proposed to be listed as endangered, all of the prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, will apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant; transport such species in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale such species in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would be sought or issued for most of the 13 taxa, because they are not in cultivation or common in the wild. Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone: 503/231–6241; facsimile: 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or

suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these 13 taxa;

(2) The location of any additional populations of these taxa and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these taxa; and

(4) Current or planned activities in the range of these taxa and their possible impacts on these taxa.

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the Federal Register. Such requests must be made in writing and be addressed to the Pacific Islands Ecoregion Manager (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Ecoregion Office (see **ADDRESSES** section).

Author: The author of this proposed rule is Marie M. Bruegmann, Pacific Islands Ecoregion Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Clermontia drepanomorpha.	'Oha wai	U.S.A.(HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*	*	
Cyanea platyphylla ..	Haha	U.S.A.(HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*	*	
Hibiscadelphus giffardianus.	Hau kuahiwi	U.S.A.(HI)	Malvaceae—Mallow	E		NA	NA
*	*	*	*	*	*	*	
Hibiscadelphus hualalaiensis.	Hau kuahiwi	U.S.A.(HI)	Malvaceae—Mallow	E		NA	NA
*	*	*	*	*	*	*	
Melicope zahlbruckneri.	Alani	U.S.A.(HI)	Rutaceae—Citrus ...	E		NA	NA
*	*	*	*	*	*	*	
Neraudia ovata	None	U.S.A.(HI)	Urticaceae—Nettle .	E		NA	NA
*	*	*	*	*	*	*	
Phyllostegia racemosa.	Kiponapona	U.S.A.(HI)	Lamiaceae—Mint ...	E		NA	NA
*	*	*	*	*	*	*	
Phyllostegia velutina	None	U.S.A.(HI)	Lamiaceae—Mint ...	E		NA	NA
*	*	*	*	*	*	*	
Phyllostegia warshaueri.	None	U.S.A. (HI)	Lamiaceae—Mint ...	E		NA	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*	*	
Pleomele hawaiiensis.	Hala pepe	U.S.A.(HI)	Agavaceae—Agave	E		NA	NA
*	*	*	*	*	*	*	
Pritchardia schattaueri.	Loulu	U.S.A.(HI)	Arecaceae—Palm	E		NA	NA
*	*	*	*	*	*	*	
Sicyos alba	'Anunu	U.S.A.(HI)	Curcurbitaceae—Gourd.	E		NA	NA
*	*	*	*	*	*	*	
Zanthoxylum *dipetalum* var. *tomentosum*.	A'e	U.S.A.(HI)	Rutaceae—Citrus	E		NA	NA
*	*	*	*	*	*	*	

Dated: August 18, 1995.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 95–23646 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 60, No. 185
Monday, September 25, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Beaverhead and Deerlodge Forest Plan Amendments; Beaverhead and Most of Deerlodge National Forests; Beaverhead, Madison, Gallatin, Silver Bow, Deerlodge, Powell, Granite and Jefferson Counties, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to amend the Forest Plans of the Beaverhead and Deerlodge National Forests to include further riparian area direction. The purpose is to determine what combination of goals, objectives and standards will restore and/or maintain riparian function.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than November 15, 1995.

ADDRESSES: Send written comments to Deborah L.R. Austin, Forest Supervisor, Beaverhead National Forest, 420 Barrett Street, Dillon, MT, 59725.

FOR FURTHER INFORMATION CONTACT: Diane Petroni, Environmental Analysis Team Leader, Madison Ranger District, 5 Forest Service Road, Ennis, MT, 59729, or phone: (406)682–4253.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to amend the Beaverhead and Deerlodge Forest Plans to include a goal statement calling for restoration and maintenance of riparian function of all streams on the forest. Also included would be objectives stated as parameters within which riparian attributes would need to fall for the stream to be considered functioning. The only numerical standard would be a riparian forage utilization table applied to areas without site-specific riparian direction. This would result in non-significant amendments to the plans.

Lands affected are riparian areas within the entire Beaverhead National Forest, and all of the Deerlodge except the Elkhorn Wildlife Management Unit. The analysis will include Bureau of Land Management (BLM) lands located within grazing allotments administered jointly by the Forest Service and BLM. The affected lands are roughly within 75 air miles of Dillon, Montana, or within 65 air miles of Butte, Montana. Riparian areas comprise about 5% of the total forest acreage.

A lawsuit against the Beaverhead National Forest grazing program resulted in a court approved settlement agreement stipulating that the Forest would propose an amendment to the Forest Plan to incorporate revised riparian guidelines.

Since the Beaverhead Forest Plan was adopted in 1986, monitoring has shown ''(t)he one quantifiable forest plan standard (Range #7) is not adequately protecting riparian dependent values'' (1993 Beaverhead National Forest Land and Resource Management Plan Five Year Review).

The Beaverhead Forest Supervisor recommended to ''Amend the Forest Plan to include specific riparian goals and objectives (including Desired Future Condition statements describing a fully functioning riparian ecosystem). In the Forest Plan, detail the analysis process (through a procedural guideline and an appendix document) to be used in the determination of site specific riparian management in the development of Allotment Management Plans.''

The Deerlodge Forest Plan was adopted in 1987. Since then, monitoring has been conducted to determine and evaluate the effects of management practices. Based on initial findings, riparian standard #8, which states grazing utilization standards in riparian areas, does not appear to meet the physical and biological needs of all riparian areas within grazing allotments.

Potential issues identified are the effects of the amendment on sensitive and other fish species, water quality, economics, wildlife habitat, recreation opportunity, lifestyle, and grazing capacity.

Public participation will be important to the analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues identified above. People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) During the scoping process and (2) during the draft EIS comment period.

During the scoping process, the Forest Service is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species. A scoping document will be prepared and mailed to parties known to be interested in the proposed action by September 29, 1995. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

In addition to the proposed action, a range of alternatives will be developed in response to issues identified during scoping. One of these will be the ''no-action'' alternative, in which no changes would be made to the forest plans. The Forest Service will analyze and document the direct, indirect, and cumulative effects of all alternatives.

The Forest Service will continue to involve the public and will inform interested and affected parties as to how they may participate and contribute to the final decision. Another formal opportunity for response will be provided following completion of a DEIS.

The draft EIS should be available for review in November, 1996. The final EIS is scheduled for completion in August, 1997.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so it is meaningful and alerts an agency to the

reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The Forest Supervisors of the Beaverhead and Deerlodge National Forests are the responsible officials who will make the decision. They will decide on this proposal after considering comments and responses, environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: September 18, 1995.

Deborah L.R. Austin,

Forest Supervisor, Beaverhead National Forest and Acting Forest Supervisor, Deerlodge National Forest.

[FR Doc. 95–23655 Filed 9–22–95; 8:45 am]

BILLING CODE 3410–11–M

Environmental Impact Statement for the Illinois Creek Timber Sale, Grand Mesa, Uncompahgre and Gunnison National Forests, Gunnison County, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to supplement a final environmental impact statement.

SUMMARY: The Forest Service will prepare a supplement to the final environmental impact statement for the Illinois Creek Timber Sale located on the Gunnison National Forest, Cebolla/Taylor River Ranger District.

DATES: Comments concerning the scope and issues of the analysis should be received by October 6, 1995; Publication of Supplement to Final EIS: November, 1995.

ADDRESSES: Send written comments to James Dawson, District Ranger, Cebolla/Taylor River Ranger District, 216 North Colorado, Gunnison, CO 81230.

FOR FURTHER INFORMATION CONTACT: Arthur Haines, Forester, Cebolla/Taylor River Ranger District, 216 North Colorado, Gunnison, CO 81230, (303) 641–0471.

SUPPLEMENTARY INFORMATION: The Forest Service is proposing to prepare a supplement to the Final environmental impact statement for the Illinois Creek Timber Sale. The biological assessment and evaluation will be revised to meet current standards and issues raised during appeal of the Final environmental impact statement will be reviewed. A new decision will be made on whether to proceed with the project.

The original Notice of Intent for this project was published in the Federal Register Vol. 57, No. 76, Monday April 20, 1992, Pages 14383–14384. A Record of Decision and Final environmental impact statement were approved June 9, 1995. This decision was appealed and the decision voluntarily withdrawn on September 8, 1995. The deficiencies identified in the appeal will be corrected in the Supplement to the Final Environmental Impact Statement.

The comment period on the final environmental impact statement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register.

The Forest Service believes, at this early state, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDG,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel,* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period (October 6, 1995) so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the supplement to the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the final environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the final environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The responsible official for this supplement to the final environmental impact statement is Robert L. Storch, Forest Supervisor, Grand Mesa, Uncompahgre and Gunnison National Forests, 2250 Highway 50, Delta, Colorado 81416.

Dated: September 15, 1995.

Robert L. Storch,

Forest Supervisor.

[FR Doc. 95–23730 Filed 9–22–95; 8:45 am]

BILLING CODE 3410–11–M

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on October 12 & 13 1995 at the BLM office in Prineville, Oregon. October 12 will be a field trip to view selected riparian areas on BLM and Forest Service land. October 13 will be a regular business meeting. Start time is 9:00 a.m. both days. Agenda items include: (1) Properly functioning conditions in riparian areas of the Province; (2) New range responsibilities for the Advisory Committee; (3) An update on the salvage program on Province forests; and (4) Open public forum. All Deschutes Province Advisory

Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Harry Hoogesteger, Province Liaison, USDA, Fort Rock Ranger District, 1230 N.E. 3rd, Bend, Oregon 97701, 503–383–4704.

Dated: September 20, 1995.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 95–23705 Filed 9–22–95; 8:45 am]

BILLING CODE 3410–11–M

Rural Utilities Service

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Utilities Service's (RUS) intentions to request an extension for and revision to currently approved information collection.

DATES: Comments on this notice must be received by November 24, 1995.

FOR FURTHER INFORMATION CONTACT: Dawn D. Wolfgang, Management Analyst, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave., SW., AG Box 1522, Washington, DC 20250–1533. Telephone: (202) 720–0812. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION:

Title: Review Rating Summary.

OMB Number: 0572–0025.

Expiration Date of Approval: December 31, 1995.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Rural Utilities Services (RUS) manages loan programs in accordance with the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*, as amended. An important part of safeguarding loan security is to see that RUS financed facilities are being responsibly used, adequately operated, and adequately maintained. Future needs have to be anticipated to ensure that facilities will continue to produce revenue and that loans will be repaid as required by the RUS mortgage. A periodic operations and maintenance (O&M) review, using the RUS Form 300, in accordance with RUS Bulletin 161–5, is an effective means for RUS to determine whether the borrowers' systems are being properly operated and maintained, thereby protecting the loan collateral. An O&M review is also used to rate facilities and can be used for appraisals of collateral as prescribed by Office of Management and Budget (OMB) Circular A–129, Policies for Federal Credit Programs and Non-Tax Receivables.

Estimate of Burden: Public Reporting burden for this collection of information is estimated to average 4 hours per response.

Respondents: Businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents: 280

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Burden on Respondents: 1,120

Copies of this information collection, and related form and instructions, can be obtained from Dawn Wolfgang, Program Support Staff, at (202) 720–0812.

Comments: Send comments regarding this burden estimate, including suggestions for reducing this burden through the use of automated collection techniques or other information technology, to:

F. Lamont Heppe, Jr., Deputy Director, Program Support Staff, Rural Utilities Service, U.S. Department of Agriculture, 14th & Independence Ave., SW., AG Box 1522, Washington, DC 20250–1522. FAX: (202) 720–4120.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 18, 1995.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 95–23648 Filed 9–22–95; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Advisory Committees; Availability of Report on Closed Meetings

AGENCY: Department of Commerce.

ACTION: Announcing public availability of report on closed meetings of advisory committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room LM133, Madison Building, 1st and Independence Avenues, SE., Washington, DC 20540

Department of Commerce, Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–4115.

SUPPLEMENTARY INFORMATION: The reports cover the closed and partially closed meetings held in FY 94 of 34 committees and one subcommittee, the names of which are listed below:

Board of Overseers of the Malcolm Baldrige National Quality Award

Committee of Chairs of Industry Advisory Committees for Trade Policy Matters (TPM)

Computer Systems Technical Advisory Committee

Electronic Technical Advisory Committee

Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for Trade Policy Matters (TPM)

ISAC on Building Products and Other Materials for TPM

ISAC on Capital Goods for TPM

ISAC on Chemicals and Allied Products for TPM

ISAC on Consumer Goods for TPM

ISAC on Electronics and Instrumentation for TPM

ISAC on Energy for TPM

ISAC on Ferrous Ores and Metals for TPM

ISAC on Footwear, Leather, and Leather Products for TPM

ISAC on Lumber and Wood Products for TPM

ISAC on Nonferrous Ores and Metals for TPM

ISAC on Paper and Paper Products for TPM

ISAC on Services for TPM

ISAC on Small and Minority Business for TPM

ISAC on Textiles and Apparel for TPM

ISAC on Transportation, Construction, and Agricultural Equipment for TPM

ISAC on Wholesaling and Retailing for TPM

Industry Functional Advisory Committee on Customs Matters for TPM

Industry Functional Advisory Committee on Intellectual Property Rights for TPM

Industry Functional Advisory Committee on Standards for TPM

Industry Policy Advisory Committee for Trade Policy Matters

Judges Panel of the Malcolm Baldrige National Quality Award

Materials Technical Advisory Committee
National Medal of Technology Nomination Evaluation Committee
National Technical Information Service Advisory Board
Regulations and Procedures Technical Advisory Committee
Sensors Technical Advisory Committee
Subcommittee on Export Administration, President's Export Council
Telecommunications Equipment Technical Advisory Committee
Transportation and Related Equipment Technical Advisory Committee
U.S. Automotive Parts Advisory Committee
Visiting Committee on Advanced Technology

FOR FURTHER INFORMATION CONTACT: Victoria A. Kurk, Management Analyst, Office of the Secretary, Department of Commerce, Washington, DC 20230, Telephone (202) 482–4115.

Dated: September 18, 1995.

Victoria A. Kruk,

Office of Executive Assistance Management.

[FR Doc. 95–23654 Filed 9–22–95; 8:45 am]

BILLING CODE 3510–FA–M

National Institute of Standards and Technology

Government Owned Inventions

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Office of Technology Partnerships, Physics Building, Room B–256, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 94–031

Title: Friction and Wear Resistant Coatings For Titanium and Its Alloys.

Description: This NIST invention is a method to control friction and wear of titanium and its alloys through the use of novel coatings. The coatings contain epoxide polymers with anti-wear fillers.

NIST Docket No. 95–034CIP

Title: Overlay Target and Measurement Procedure to Enable Self-Correction for Wafer-Induced and Tool-Induced Shift by All-Imaging-Sensor Means.

Description: The estimates of overlay extracted by a metrology instrument from standard targets on IC wafers are ordinarily burdened by difficult-to-estimate systematic errors called shifts. The first of two parts of this invention is to replacement of a standard overlay target used in normal IC fabrication practice with multiple instances of a so-called target unit. The referenced target units constitute a single so-called self-calibrating optical-overlay target structure. Each target unit is a standard target having an additional grouping of features called a null-detector subsystem. The null-detector subsystems embodied in the new self-calibrating optical-overlay target structure enable the extraction of zero-overlay indices. The second part of the invention includes modification to the metrology instrument's target scanning and imaging systems to provide supplementary inspection of the null-detector susystems. The zero-overlay indices, when analyzed in conjunction with the burdened overlay estimates extracted from the corresponding multiple instances of the standard targets within the same self-calibrating optical-overlay target structure, enable an estimate of the shift affecting the overlay measurements. The unique novelty of providing self-calibration of the metrology instrument, with respect to shift, on the same substrate as that from which overlay estimates are sought by the user has significant commercial importance.

Dated: September 15, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–23639 Filed 9–22–95; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic And Atmospheric Administration

Open Meeting Florida Keys National Marine Sanctuary Advisory Committee

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Florida Keys National Marine Sanctuary Advisory Council (SAC) notice of open meeting.

SUMMARY: The Council was established in December 1991 to advise and assist the Secretary of Commerce in the development and implementation of the comprehensive management plan for the Florida Keys National Marine Sanctuary.

TIME AND PLACE: October 5, 1995, from 8:30 a.m. until noon. The meeting location will be at the Monroe County Government Center, 2796 Overseas Highway, Marathon, Florida.

AGENDA: Updates on the ten SAC action plan working groups.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Public comment will be received from 11:30 until noon. Seats will be set aside for the public and the media. Seats will be available on a first-come first-served basis.

FOR FURTHER INFORMATION CONTACT: June Cradick at (305) 743–2437.

Dated: September 19, 1995.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

David L. Evans,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 95–23722 Filed 9–22–95; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Advisory Committee

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session on 3–4 October 1995 from 0800 until 1700 in the Pentagon, Washington, DC.

The mission of the Defense Policy Board is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting the Board will hold classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App. II (1982)], it has been

determined that this Defense Policy Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: September 20, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–23695 Filed 9–22–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on International Arms Cooperation

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on International Arms Cooperation will meet in closed session on October 19–20 and November 20–21, 1995 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will develop a generic model of international arms cooperation for the 21st century and also identify specific management actions that must be implemented to allow successful program execution on international efforts.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. § 552b(c)(1)(1988), and that accordingly these meetings will be closed to the public.

Dated: September 20, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–23694 Filed 9–22–95; 8:45 am]

BILLING CODE 5000–04–M

U.S. Strategic Command Strategic Advisory Group

AGENCY: Department of Defense, USSTRATCOM.

ACTION: Notice.

SUMMARY: The Strategic Advisory Group (SAG) will meet in closed session on October 19 and 20, 1995. The mission of the SAG is to provide timely advice on scientific, technical, and policy-related issues to the Commander in Chief, U.S. Strategic Command, during the development of the nation's strategic warplans. At this meeting, the SAG will discuss strategic issues that relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, April 2, 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App II (1988), it has been determined that this SAG meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that, accordingly, this meeting will be closed to the public.

Dated: September 20, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–23696 Filed 9–22–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Advisory Committee Meeting Notice

AGENCY: U.S. Army Center of Military History.

ACTION: Notice of meeting.

1. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Department of Defense Historical Advisory Committee.

Date: 28 October 1995.

Place: Franklin Court Building, U.S.Army Center of Military History, 1099 14th Street NW, 2nd Floor, Washington, D.C. 20005–3402.

Time: 0900–1500.

Proposed Agenda: Review and discussion of the status of historical activities in the U.S. Army.

2. Purpose of meeting: The Committee will review the Army's historical activities for FY95 and those projected for FY96 based on reports and manuscripts received throughout the period and formulate recommendations through the Chief of Military History to the Chief of Staff, Army, and the Secretary of the Army for advancing the use of history in the U.S. Army.

3. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the 28 October meeting.

4. Any members of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

5. All communications regarding this Advisory Committee should be addressed to Dr. Jeffrey J. Clarke, U.S. Army Center of Military History, Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005–3402. Telephone number, (202) 504–5402.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–23653 Filed 9–22–95; 8:45 am]

BILLING CODE 3710–08–M

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning a Recombinant Vaccine Against Dengue Virus

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent Application Serial No. 08/433,263, entitled ''Recombinant Vaccine Made in E. coli Against Dengue Virus'', and filed May 2, 1995. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, Attn: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention relates to the development of a recombinant vaccine for dengue viruses in which gene fragments encoding important structural and non-structural proteins were expressed in Escherichia coli as fusion proteins with Staphylococcal protein A. The Recombinant fusion proteins were purified, analyzed for antigenicity, immunogenicity, and their ability to protect mice against lethal challenge with live dengue (DEN) viruses. Antigenicity was found with anti-DEN polyclonal and monoclonal antibodies. Mice immunized with the purified fusion protein made anti-DEN antibodies measured by the hemagglutination-inhibition and

neutralization tests, and were solidly protected against lethal challenge with DEN viruses administered by intracranial inoculation.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–23652 Filed 9–22–95; 8:45 am]

BILLING CODE 3710–08–M

Defense Nuclear Agency

Privacy Act of 1974; Notice To Add a System of Records

AGENCY: Defense Nuclear Agency, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Defense Nuclear Agency proposes to add a system of records to its inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on October 25, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to General Counsel, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Barker at (703) 325–7681.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Nuclear Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the above address.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on September 12, 1995, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated July 15, 1994 (59 FR 37906, July 25, 1994).

Dated: September 15, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

HDNA014

SYSTEM NAME:

Student Records.

SYSTEM LOCATION:

Field Command, Defense Nuclear Agency, Defense Nuclear Weapons School, Kirtland Air Force Base, NM 87117–5669.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Any student attending the Defense Nuclear Weapons School.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student academic records consisting of course completion; locator information; and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 302, 4103 and E.O. 9397.

PURPOSE(S):

To determine applicant eligibility, as a record of attendance and training, completion or elimination, as a locator, and a source of statistical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of DNA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files and on computer media.

RETRIEVABILITY:

Information may be retrieved by name or Social Security Number.

SAFEGUARDS:

Records are maintained in locked cabinets. The computer terminals are located in restricted areas accessible only to authorized personnel. Buildings are protected by security guards and an intrusion alarm system.

RETENTION AND DISPOSAL:

Individual academic records are retained for 40 years, 3 of which are at the school. They are subsequently retired to the National Personnel Records Center. Other records are retained until no longer needed and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Field Command Defense Nuclear Weapons School, Defense Nuclear Agency, 1900 Wyoming Boulevard, Southeast, Kirtland Air Force Base, NM 87117–5669.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Field Command Defense Nuclear Weapons School, Defense Nuclear Agency, 1900 Wyoming Boulevard, Southeast, Kirtland Air Force Base, NM 87117–5669.

Individuals should provide their name, address, and proof of identity (photo identification for in person access).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Field Command Defense Nuclear Weapons School, Defense Nuclear Agency, 1900 Wyoming Boulevard, Southeast, Kirtland Air Force Base, NM 87117–5669.

Individuals should provide name, Social Security Number, current address, and sufficient information to permit locating the record.

For personal visits, the individual should provide military or civilian identification card.

CONTESTING RECORD PROCEDURES:

The DNA rules for contesting contents and appealing initial agency determinations are published in DNA Instruction 5400.11A; 32 CFR part 318; or may be obtained from the system manager or the General Counsel, Headquarters, Defense Nuclear Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–23697 Filed 9–22–95; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy

Public Hearing for Draft Environmental Impact Statement on Realignment of Naval Air Station Miramar, CA

Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act, the Marine Corps has prepared and filed with the U.S. Environmental Protection Agency the Draft Environmental Impact Statement (DEIS) for realignment of

Naval Air Station (NAS) Miramar, California.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held on October 18, 1995, beginning at 6:00 pm, in the Tierrasanta Elementary School Auditorium, located at 5450 La Quenta Drive, San Diego, California.

The public hearing will be conducted by the Marine Corps. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer; however, to assure accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this study. Equal weight will be given to both oral and written statements.

In the interest of available time, each speaker will be asked to limit their oral comments to five minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or mailed to the address listed at the end of this announcement. All written statements must be postmarked by October 29, 1995, to become part of the official record.

The DEIS has been distributed to various Federal, State, and local agencies, elected officials, and civic associations and groups. A limited number of single copies are available at the address listed at the end of this notice.

In accordance with the Defense Base Closure and Realignment Act of 1990 and the specific base closure and realignment decisions approved by the president and accepted by Congress in September 1995, the proposed action is the realignment or conversion of NAS Miramar to Marine Corps Air Station (MCAS) Miramar. The proposed action relocates aircraft and associated assets from MCAS Tustin and MCAS El Toro, which are closing, to NAS Miramar. Alternatives considered in the DEIS include: no action, relocation of aircraft and assets to other air stations that meet operational requirements, and relocation of aircraft and assets to NAS Miramar. Alternative configurations of facilities at NAS Miramar were also evaluated. The proposed action will have impacts on noise, endangered species, and air quality.

Additional information concerning this notice may be obtained by contacting LtCol George Martin or Mr. Bruce Shaffer, Base Closure and Realignment Office, Marine Corps Air Station El Toro, Santa Ana, CA 92709, telephone (714) 726–2338.

Dated: September 19, 1995.

Robert Watkins,

Head, Land Use and Military Construction Branch, Facilities and Services Division, Installations and Logistics Department.

By direction of the Commandant of the Marine Corps.

[FR Doc. 95–23669 Filed 9–22–95; 8:45 am]

BILLING CODE 3810–AE–P

Notice of Intent To Prepare an Environmental Impact Statement for Proposed Disposal and Reuse of the Naval Air Warfare Center Aircraft Division, Warminster, PA

Pursuant to the National Environmental Policy Act (NEPA) as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental effects of the disposal and reuse of the Naval Air Warfare Aircraft Center Aircraft Division (NAWCAD), Warminster, Pennsylvania. The NAWCAD is located in Bucks County approximately 18 miles north of Center City Philadelphia and 15 mile west of the New Jersey/Pennsylvania state line. The NAWCAD's mission has been the principal Navy research, development, test and evaluation center for naval aircraft systems, and for airborne and anti-submarine warfare systems.

In accordance with the decision of the Base Closure and Realignment Commission in 1993 and 1995, acting under the provisions of the 1988 Base Close and Realignment Commission Act (commonly known as the BRAC legislation), the Navy plans to close and dispose of the NAWCAD. The majority of the existing aircraft systems research, development, test, and evaluation (RDT&E) functions are to be relocated to the Naval Air Test Center, Patuxent River, Maryland. The proposed action to be analyzed in the EIS involves the disposal of land, buildings, and infrastructure for subsequent reuse.

A reuse plan developed by the Bucks County Economic Adjustment Committee (EAC) and Base Reuse Subcommittee will be the preferred alternative presented in the EIS. The proposed reuse plan is designed to be market-driven, to capitalize on the site's assets, and minimize the impacts of the site's constraints. The major elements of the reuse plan are: incubator research and development (R&D) and educational use of the developed areas on either side of Jacksonville Road; new industrial/business/office R&D complex (159 acres) on the undeveloped area at Jacksonville Road and Street Road frontages; park and recreation uses (258 acres); university/institutional land (84 acres) to support a new college with approximately 2,000 students; and a major new spine road linking the site and providing new access points to the site. Other reuse plan elements include the following: senior congregate care site (38 acres) providing health and living care opportunities; Navy retained housing; residential lands (39 acres) in Ivyland Borough; municipal lands for Warminster Township use (24 acres); hotel/conference center site (10 acres); and additional lands for roadways and easements.

The EIS to be prepared by the Navy will address the following known areas of concern: effects of new development at the NAWCAD on the regional socioeconomic environment, potential effects on infrastructure and transportation systems, and the effects of reuse on any historic properties on-site. Additionally, potential impacts to the natural environment that will be addressed in the EIS include, but are not limited to, air quality, water quality, hazardous materials, wetlands, and endangered species.

The Navy will initiate a scoping process for the purposes of determining the scope of issues to be addressed and for identifying significant issues related to the proposed reuse. The Navy will hold a public scoping meeting on Wednesday, October 12, 1995, beginning at 7:30 pm at the Longstreth Elementary School, 999 Roberts Avenue, Warminster, Pennsylvania. This notice will also appear in local papers.

A brief presentation will precede a request for public comment and will include a general description of the proposed reuse plan developed by the Bucks County Economics Adjustment Committee. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit oral comments to 5 minutes.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics that the commenter believes should be

addressed in the EIS. Written statements and/or questions regarding the scoping process should be mailed no later than November 1, 1995 to: Commanding Officer, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Lester, Pennsylvania, 19113 (Attn: Mr. Kurt Frederick, Code 202, telephone (610) 595–0759).

Dated: September 19, 1995.

M.D. Schetzsle, Lt, JAGC, USNR,

Alternate Federal Register Liaison Officer.

[FR Doc. 95–23640 Filed 9–22–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 24, 1995.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Department of Education (ED) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available for Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 20, 1995.

Gloria Parker,

Director, Information Resources.

Office of Elementary and Secondary Education

Type of Review: New.

Title: State or Court-Ordered Desegregated LEA's Submission for Title I Services.

Frequency: Annually.

Affected Public: State, Local or Tribal Governments.

Reporting Burden:

Responses: 275.

Burden Hours: 1100.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: LEAs under such desegregation plans may request the waivers in order to provide Title I Services to schools where the concentration of poverty have been altered by the plan, provided that at least 25% of the school's total enrollment is from low income families.

[FR Doc. 95–23693 Filed 9–22–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER92–429–006, et al.]

Torco Energy Marketing Inc., et al.; Electric Rate and Corporate Regulation Filings

September 18, 1995.

Take notice that the following filings have been made with the Commission:

1. Torco Energy Marketing Inc.

[Docket No. ER92–429–006]

Take notice that on September 11, 1995, Torco Energy Marketing, Inc. tendered filed certain information as required by the Commission's letter order dated May 18, 1992. Copies of the informational filing are on file with the Commission and are available for public inspection.

2. LG&E Power Marketing Inc.

[Docket No. ER94–1188–006]

Take notice that on August 4, 1995, LG&E Power Marketing Inc. tendered for filing an amendment to its filing in this docket. Copies of the informational filing are on file with the Commission and are available for public inspection.

3. CMEX Energy, Inc.

[Docket No. ER94–1328–004]

Take notice that on August 21, 1995, CMEX Energy, Inc. filed certain information as required by the Commission's July 12, 1994, order in Docket No. ER94–1328–000. Copies of CMEX Energy, Inc. informational filing are on file with the Commission and are available for public inspection.

4. Industrial Gas & Electric Services Company

[Docket No. ER95–257–003]

Take notice that on September 11, 1995, Industrial Gas & Electric Services Company filed certain information as required by the Commission's February 1, 1995 order in Docket No. ER95–257–000. Copies of the Industrial Gas & Electric Services Company's informational filing are on file with the Commission and are available for public inspection.

5. Hartford Power Sales, L.L.C.

[Docket No. ER95–393–005]

Take notice that on August 10, 1995, Hartford Sales, L.L.C. tendered for filing a Notice of Succession for power marketing waivers, blanket authorizations, and order approving rate schedule.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. TransCanada-Northridge Power Ltd.

[Docket No. ER95–692–001]

Take notice that on August 29, 1995, TransCanada-Northridge Power Ltd. tendered for filing certain information as required by the Commission's letter order dated June 9, 1995. Copies of the informational filing are on file with the Commission and are available for public inspection.

7. Puget Sound Power & Light Company

[Docket No. ER95–1235–000]

Take notice that on August 14, 1995, Puget Sound Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Hinson Power Company

[Docket No. ER95–1314–001]

Take notice that on September 7, 1995, Hinson Power Company filed a revision to their Rate Schedule FERC No. 1 as required by the Commission's August 29, 1995, order in Docket No. ER95–1314–000.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Proler Power Marketing, Inc.

[Docket No. ER95–1433–000]

Take notice that on September 12, 1995, Proler Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Atlantic City Electric Company

[Docket No. ER95–1476–000]

Take notice that on September 6, 1995, Atlantic City Electric Company (ACE) tendered for filing supplemental material in Docket No. ER95–1476–000. Copies of the filing were served on the New Jersey Board of Regulatory Commissioners.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. GED Gas Services, LLC

[Docket No. ER95–1583–000]

Take notice that on September 5, 1995, GED Services, LLC tendered for filing an amendment in the above-referenced docket.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER95–1624–000]

Take notice that on August 24, 1995 Commonwealth Edison Company (ComEd) submitted a Service Agreement, dated July 26, 1995, establishing Catex Vitol Electric L.L.C. (Catex Vitol) as a customer under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of July 26, 1995, and accordingly seeks a waiver of the Commission's requirements. Copies of this filing were served upon Catex Vitol and the Illinois Commerce Commission.

Comment date: October 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Houston Lighting & Power Company

[Docket No. ER95–1706–000]

Take notice that on September 6, 1995, Houston Lighting & Power Company (HL&P), tendered for filing two executed transmission service agreements (TSA) with Enron Power Marketing, Inc. (Enron), two executed TSAs with LG&E and one executed TSA with Electric Clearinghouse, Inc. for Economy Energy Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested effective dates of (1) a service commencement date of August 19, 1995 for the TSA with Electric Clearinghouse; (2) a service commencement date of August 19, 1995 for the TSA with Enron Power Marketing, Inc. covering economy energy provided by LCRA; (3) a service commencement date of August 22, 1995 for the TSA with Enron Power Marketing, Inc. covering economy energy provided by HL&P; (4) a service commencement date of August 28, 1995 for the TSA with LG&E covering economy energy provided by HL&P; and (5) a service commencement date of September 1, 1995 for the TSA with LG&E covering economy energy supplied by TU Electric.

Copies of the filing were served on Electric Clearinghouse, Inc., Enron and the Public Utility Commission of Texas.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Central Illinois Public Service Company

[Docket No. ER95–1707–000]

Take notice that on September 6, 1995, Central Illinois Public Service Company (CIPS) submitted two Service Agreements, dated August 11, 1995 and August 21, 1995, establishing PECO Energy Company and Dayton Power and Light Company, respectively, as customers under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests effective dates of August 11, 1995, for the service agreement with PECO and the revised Index of Customers and of August 25, 1995 for the service agreement with DP&L. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon PECO Energy Company, Dayton Power and Light Company and the Illinois Commerce Commission.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Public Service Corporation

[Docket No. ER95–1721–000]

Take notice that on September 8, 1995, Wisconsin Public Service Corporation tendered for filing executed service agreements with Howard Energy Company, Inc., LG&E Power Marketing, Inc., MidCon Power Services Corp., and Nor Am Energy Services, Inc. under its CS–1 Coordination Sales Tariff.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Indiana Gas and Electric Company

[Docket No. ER95–1722–000]

Take notice that on September 8, 1995, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing to a proposed Interchange Agreement with Catex Vitol Electric L.L.C. (Catex).

The proposed revised Interchange Agreement will provide for the purchase, sale, and transmission of capacity and energy by either party under the following Service Schedules: (a) SIGECO Power Sales, (b) Catex Power Sales, and (c) Transmission Service.

Waiver of the Commission's Notice Requirements is requested to allow for an effective date of September 7, 1995.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Indiana Gas and Electric Company

[Docket No. ER95–1723–000]

Take notice that on September 8, 1995, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing to a proposed Interchange Agreement with Electric Clearinghouse, Inc. (ECI).

The proposed revised Interchange Agreement will provide for the purchase, sale, and transmission of capacity and energy by either party under the following Service Schedules: (a) SIGECO Power Sales; (b) ECI Power Sales, and (c) Transmission Service.

Waiver of the Commission's Notice Requirements is requested to allow for an effective date of September 7, 1995.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Electric Company; Cambridge Electric Light Company

[Docket No. ER95–1724–000]

Take notice that on September 8, 1995, Commonwealth Electric Company (Commonwealth) on behalf of itself and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and Electric Clearinghouse, Inc.

These Service Agreements specify that Electric Clearinghouse, Inc. has signed on to and has agreed to the terms and conditions of the Companies' Power Sales and Exchanges Tariffs designated as Commonwealth's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 3) and Cambridge's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 5). These Tariffs, approved by FERC on April 13, 1995, and which have an effective date of March 20, 1995, will allow the Companies and Electric Clearinghouse, Inc. to enter into separately scheduled transactions under which the Companies will sell to Electric Clearinghouse, Inc. capacity and/or energy as the parties may mutually agree.

The Companies request an effective date of August 10, 1995, as specified on each Service Agreement.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Texas Utilities Electric Company

[Docket No. ER95–1725–000]

Take notice that on September 8, 1995, Texas Utilities Electric Company (TU Electric), tendered for filing eight executed transmission service agreements (TSA's) with LG&E Power Marketing, Inc. and Central & South West Services, Inc. for certain Economy Energy Transmission Service and Emergency Power Transmission Service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections. The TSA's provide for transmission service to and over the East HVDC Interconnection.

TU Electric requests effective dates for the TSA's that will permit them to become effective on the dates service first commenced under each of the eight TSA's. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on LG&E Power Marketing, Inc. and Central & South West Services, Inc., as well as the Public Utility Commission of Texas.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Company of Oklahoma; Southwestern Electric Power Company

[Docket No. ER95–1726–000]

Take notice that on September 8, 1995, Public Service Company of Oklahoma (PSO) and Southwestern Public Service Company (SWEPCO) (jointly, the Companies) submitted a Transmission Service Agreement, dated August 11, 1995, establishing LG&E Power Marketing, Inc. (LPM) as a customer under the terms of the Companies' SPP Interpool Transmission Service Tariff.

The Companies request an effective date of August 11, 1995, for the service agreement. Accordingly, the Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon LPM, the Public Utility Commission of Texas, and the Oklahoma Corporation Commission.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Central Power and Light Company; West Texas Utilities Company

[Docket No. ER95–1727–000]

Take notice that on September 8, 1995, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, the Companies) submitted a Transmission Service Agreement, dated August 11, 1995, establishing LG&E Power Marketing, Inc. (LPM) as a customer under the terms of the ERCOT Interpool Transmission Service Tariff.

The Companies request an effective date of August 11, 1995, for the service agreement. Accordingly, the Companies request waiver of the Commission's notice requirements. Copies of this filing were served upon LPM and the Public Utility Commission of Texas.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Ohio Edison Company; Pennsylvania Power Company

[Docket No. ER95–1728–000]

Take notice that on September 11, 1995, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, an Agreement for System Power Transactions with Citizens Lehman Power Sales, dated September 8, 1995. This initial rate schedule will enable the parties to purchase or sell capacity and energy in accordance with the terms and conditions set forth herein.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. Virginia Electric and Power Company

[Docket No. ER95–1729–000]

Take notice that on September 11, 1995, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement between Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, collectively, the Allegheny Power System (APS) and Virginia Power, dated August 21, 1995, under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to APS under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Public Utilities Commission of Ohio, the Virginia State Corporation Commission, the West Virginia Public Service Commission, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, and the North Carolina Utilities Commission.

Comment date: October 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance

with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23658 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–614–000]

Paiute Pipeline Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed Paiute LNG Project and Request for Comments on Environmental Issues

September 19, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of facilities proposed in the Paiute LNG Project. This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.[1]

Summary of the Proposed Project

Paiute Pipeline Company (Paiute) is seeking approval to construct and operate a 300-gallon-per-minute truck unloading facility at its liquefied natural gas (LNG) storage facility near Lovelock, Pershing County, Nevada. The purpose of the project is to give Paiute the ability to provide its LNG storage service customers with additional options for helping to meet their peak demand, emergency, or other requirements.

The LNG truck unloading facility would include transfer piping, valves, and appurtenant facilities. The proposed truck unloading station would be able to unload six 10,000-gallon tankers per day for the equivalent of 5,000 MCF per day.

The proposed project facilities would be designed, constructed, and maintained to comply with the U.S. Department of Transportation Federal Safety Standards for Liquefied Natural Gas Facilities (49 CFR Part 193). The facilities would also meet the National Fire Protection Association 59A LNG standards.

LNG would be transported to the site by LNG tanker trucks. The preferred routing from eastern locations would be to exit Interstate 80 (I–80) at exit 107 onto Cornell Avenue to 14th Street. The route would turn north on Central Avenue, continuing to Pitt Road. A westerly turn onto Pitt Road would lead the trucks directly to the LNG Plant. For traffic from the west, the preferred route would be to exit I–80 at exit 105, then continue through the commercial portion of Lovelock via Cornell Avenue to 14th Street, and then as above. This route would avoid any grade level crossing of the Southern Pacific Railroad tracks.

As an alternative, all trucks could be routed off I–80 at exit 112, follow an alternative route that runs southwest on Upper Valley Road, and then west on Pitt Road. However, this route does require a grade level crossing of the Southern Pacific Railroad tracks at exit 112.

The location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

The proposed facilities would be constructed within the 20-acre, previously-disturbed, fenced LNG plant site.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Vegetation and wildlife
- Cultural Resources
- Land Use
- Air Quality and Noise
- Public Safety

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Public Participation and Scoping Meetings

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative trucking routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, DC 20426;
- Reference Docket No. CP95–614–000;
- Send a *copy* of your letter to: Mr. James Dashukewich, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., NE, Room 7312, Washington, D.C. 20426; and
- Mail your comments so that they are received in Washington, D.C. on or before October 19, 1995.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to

[1] Paiute Pipeline Company's application was filed under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

become an official party to the proceeding or an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor, you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

Filing of timely motions to intervene in this proceeding should be made on or before September 25, 1995. Once this date has passed, parties seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Environmental Mailing List

This notice is being sent to all potential interested parties to solicit focused comments regarding environmental considerations related to the proposed project.

If you do not want to send comments at this time but still want to keep informed and receive copies of the EA, please return the Information Request (see appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Additional information about the proposed project is available from Mr. James Dashukewich, EA Project Manager, at (202) 208–0117.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23659 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3195–064 California]

Sayles Hydro Associates; Notice of Availability of Environmental Assessment

September 19, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR part 380 (Order 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed a non-capacity related amendment of license for the Sayles Flat Hydroelectric Project, No. 3195–064. The Sayles Flat Project is located on the South Fork American River in El Dorado County, California. The plan is for the removal of project facilities and restoration of the site. An Environmental Assessment (EA) was prepared for the plan. The EA finds that approving the plan would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23661 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Tendered for Filing With the Commission

September 11, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Major New License.

b. Project No.: 1951–037.

c. Date filed: August 30, 1995.

d. Applicant: Georgia Power Company.

e. Name of Project: Sinclair Hydroelectric Project.

f. Location: On the Oconee River, near the Town of Milledgeville, Baldwin County, Georgia.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: C.M. Hobson, Manager—Environmental Affairs, Georgia Power Company, 333 Piedmont Avenue—Bin No. 10170, Atlanta, GA 30308–3374, (404) 526–7778.

i. FERC Contact: Kelly R. Fargo (202) 219–0231.

j. Description of Project: The proposed project would utilize the following existing project facilities owned by the Georgia Power Company: (1) A 104-foot-high, 2,988-foot-long dam; (2) a powerhouse containing two 22.5-megawatt (MW) turbine/generator units with a total installed generating capacity of 45 MW; (3) a 15,330-acre reservoir; (4) an excavated tailrace; (5) a 90-foot-long, 115-kilovolt, 3 phase transmission line; and (6) appurtenant facilities. The average annual generation is about 118 gigawatthours.

k. With this notice, we are initiating consultation with the GEORGIA STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23663 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11492–001 Idaho]

Ted S. Sorenson; Notice of Surrender of Preliminary Permit

September 19, 1995.

Take notice that Ted S. Sorenson, Permittee for the Owsley Canal Project No. 11492, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 11492 was issued December 20, 1994, and would have expired November 30, 1997. The project would have been located on Birch Creek Hydroelectric Outfall Canal, in Clark and Jefferson Counties, Idaho.

The Permittee filed the request on September 5, 1995, and the preliminary permit for Project No. 11492 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23660 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–24–002]

Colorado Interstate Gas Co.; Notice of Filing of Refund Report

September 19, 1995

Take notice that on September 8, 1995, Colorado Interstate Gas Company (CIG) filed a third refund report in Docket Nos. GP83–11, RI83–9, et al. CIG states that the filing and refunds were made to comply with the Commission's Orders of December 1, 1993 and May 19, 1994.

CIG also states that the initial refunds were paid by CIG on December 14, 1994 and the second refund was made on April 12, 1995. The third and fourth refunds were paid on June 29, 1995 and August 8, 1995.

The September 8, 1995, refund report summarizes the refunds made as of that date by CIG for Kansas ad valorem tax overpayments pursuant to the Commission's December 1, 1993 and

May 19, 1994 Orders. CIG states that the lump-sum cash refunds were made by CIG to its former jurisdictional sales customers within 30 days of receipt from the producers. As provided for in the Orders, no additional interest was required to be paid.

CIG states that copies of CIG's filing have been served on CIG's former jurisdictional sales customers, interested states commissions, and all parties to the proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR section 385.211). All such protests should be filed on or before September 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23665 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1951–037, GA]

Georgia Power Co.; Notice of Application and DEA Accepted for Filing; Notice Requesting Interventions and Protests; and Notice (REA) Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions

September 19, 1995.

The Sinclair Project is located on the Oconee River near the city of Milledgeville, in Baldwin County, Georgia. The proposed project would utilize the following existing project facilities owned by the Georgia Power Company: (1) A 104-foot-high, 2,988-foot-long dam; (2) a powerhouse containing two 22.5-megawatt (MW) turbine/generator units with a total installed generating capacity of 45 MW; (3) a 15,330-acre reservoir; (4) an excavated tailrace; (5) a 90-foot-long, 115-kilovolt, 3 phase transmission line; and (6) appurtenant facilities. The average annual generation is about 118 gigawatthours.

The purpose of this notice is to: (1) Inform all interested parties that the Sinclair draft environmental assessment (DEA) and final license application filed with the Commission on August 30, 1995, are hereby accepted; (2) invite interventions and protests; (3) solicit comments, final recommendations, terms and conditions, or prescriptions on Georgia Power Company's DEA and final license application.

The Georgia Power Company, U.S. Forest Service (FS), Georgia Department of Natural Resources-Wildlife Resources Division (Georgia DNR–WRD), the U.S. Fish and Wildlife Service (FWS), and National Marine Fisheries Service (NMFS), as well as other federal, state, and local agencies, have been working cooperatively to prepare the DEA since 1993.

The Georgia Power Company and the Georgia DNR–WRD, FWS, and the NMFS have reached agreement as to the preferred alternative for relicensing the Sinclair Project. This preferred alternative is reflected in the DEA.

Interventions and Protests

All filings must: (1) Bear in all capital letters the title ''MOTION TO INTERVENE'', (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant.

In addition, commenters *may* submit a copy of their comments, interventions on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, WordPerfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format and then write them to files on a diskette formatted for MS–DOS machines. Any of these documents must be filed by providing the original and 8 copies required by the Commission's Regulations to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

An additional copy must be sent to: Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any motion to intervene or protest must be served upon each representative of the applicant specified in the final application.

All filings must be received 60 days from the date of this notice.

Comments, Final Terms and Conditions, Recommendations and Prescriptions

Interested parties have 60 days from the date of this notice to file with the Commission, any final comments, final recommendations, terms and conditions and prescriptions for the Sinclair Project. The applicant will have 45 days to respond to the agencies' final recommendations, terms and conditions, and prescriptions. In view of the high level of early involvement of the FS, Georgia DNR–WRD, FWS, NMFS, other federal, state and local agencies, as well as the public, we expect the majority of comments to reflect the agreement and preferred alternative in the DEA.

Copy of the Application

A copy of the DEA and final license application can be inspected and reproduced at Georgia Power Company's corporate office, 333 Piedmont Avenue, 18th floor, Atlanta, Georgia, and at local area government offices in the vicinity of the project.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23664 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–173–005]

Koch Gateway Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

September 19, 1995.

Take notice that on September 15, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to be effective September 1, 1995:

Third Revised Sheet No. 402
3rd Sub Third Revised Sheet No. 502
Substitute Second Revised Sheet No. 1305
3rd Sub Second Revised Sheet No. 1409
Substitute First Revised Sheet No. 1901
Third Revised Sheet No. 3606
Substitute Second Revised Sheet No. 4900

Koch Gateway states that the above referenced tariff sheets reflect revisions to its tariff in compliance with the August 31, 1995, Federal Energy Regulatory Commission (Commission) order. Pursuant to the Commission's order Koch Gateway revised the above referenced tariff sheets to (1) require that PAA revisions submitted after gas flow be agreed to by all affected parties or their authorized agents; (2) clarify that storage transfers are permitted with no injection or withdrawal charges; (3) to clarify when Koch Gateway will refund a customer's prepayment; and (4)

clarify that if a replacement customer's prepayment is forfeited, pursuant to Section 29.1(C)(3), then the prepayment will be paid to the releasing customer.

Koch Gateway also states that the tariff sheets are being mailed to all parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's regulations. All such protests should be filed on or before September 26, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23666 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2670 Wisconsin]

Northern States Power Company and the City of Eau Claire, WI; Notice of Intent To File an Application for a New License

September 19, 1995.

Take notice that Northern States Power Company and the City of Eau Claire, WI, the existing co-licensees for the Dells Hydroelectric Project No. 2670, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2670 was issued effective September 1, 1950, and expires September 1, 2000.

The project is located on the Chippewa River in Chippewa and Eau Claire Counties, Wisconsin. The principal works of the Dells Project include a 619-foot-long dam; a 1,100-acre reservoir at a normal pool elevation of 795.0 ft. m.s.l.; two powerhouses operating at a 27-foot hydraulic head: the main powerhouse containing five units rated at 8,400 kW total and the secondary containing two units rated at 1,100 kW total; an interconnected transmission line system; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the co-licensees at 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702–0008.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 1, 1998.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23662 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–409–001]

Northwest Pipeline Corporation; Notice of Compliance Filing

September 19, 1995.

Take notice that on September 15, 1995, Northwest Pipeline Corporation (Northwest) tendered sheets in conformity with part 154 of the Regulations of the Commission and to comply with the Commission's August 31, 1995, Suspension Order in Docket No. RP95–409:

FERC Gas Tariff, Third Revised Volume No. 1

Pro Forma Sheet No. 5
Pro Forma Sheet Nos. 5–A through 5–C
Pro Forma Sheet No. 6
Pro Forma Sheet No. 7
Pro Forma Sheet No. 8
Pro Forma Sheet No. 8.1
Pro Forma Sheet Nos. 375 through 378
Pro Forma Sheet No. 380
First Revised Fourth Revised Sheet No. 375
First Revised Third Revised Sheet No. 376
First Revised Fourth Revised Sheet No. 377
First Revised Second Revised Sheet No. 378
First Revised First Revised Sheet No. 380

Original Volume 2

Pro Forma Sheet Nos. 2, 2.1, and 2–A

Northwest states that the purpose of this filing is to comply with the Commission's August 31, 1995 Order Accepting and Suspending Tariff Sheets, Subject to Refund and Conditions, and Establishing Hearing Procedures (''Order''), pertaining to Northwest's request to implement a general rate increase in Docket No. RP95–409–000. The Order directs Northwest to file within 15 days of the Order: (1) Revised tariff sheets reflecting Northwest's current Index of Shippers; and (2) pro forma tariff sheets reflecting the rates Northwest will propose if rolled-in treatment of the Expansion II and Northwest Natural Expansion facilities costs is denied.

Northwest states that a copy of this filing has been served upon all of Northwest's customers, upon all intervenors in Docket No. RP95–409, and upon relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before September 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23668 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–407–001]

Questar Pipeline Company; Notice of Proposed Changes in Tariff Riling

September 19, 1995.

Take notice that on September 15, 1995, Questar Pipeline Company (Questar), tendered for filing and acceptance tariff sheets to its FERC Gas Tariff to comply with the Commission's August 31, 1995, order, to become effective February 1, 1996. Questar tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Substitute Alternate Fifth Revised Sheet No. 5
Substitute Original Sheet Nos. 98A and 98B
Substitute First Revised Sheet No. 98

Questar states that the purpose of the filing is to comply with the Commission's August 31, 1995, order in Docket No. RP95–407–000. The order directed Questar to file an explanation of its proposal to recover costs associated with the Financial Accounting Standards Board's SFAS 106, information concerning the allocation of administrative and general expenses and revised tariff sheets reflecting revised Account No. 858 surcharges. The surcharges are to apply to all Part 284 transportation service, including both firm and interruptible service, and state that the surcharge will be the last item discounted.

Questar states that copies of the proposed tariff sheets and the transmittal letter describing the nature of the filing were served upon all parties set out on the official service list in Docket No. RP95–407–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before September 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23667 Filed 9–22–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5301–8]

Denial of Petition; Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of denial of petition.

SUMMARY: This action notifies the public that the Agency received two petitions pursuant to section 612(d) of the Clean Air Act, under the Significant New Alternatives Policy (SNAP) Program, and that EPA is denying both petitions. SNAP implements section 612 of the amended Clean Air Act of 1990, which requires EPA to evaluate substitutes for ozone-depleting Substances (ODS) and to regulate the use of substitutes where other alternatives exist that reduce overall risk to human health and the environment. Through these evaluations, EPA generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors.

OZ Technology, Inc. submitted Hydrocarbon Blend A as a CFC–12 substitute in a variety of end-uses. In the March 18, 1994 final SNAP rule (59 FR 13044), EPA found the use of Hydrocarbon Blend A unacceptable as a substitute for CFC–12 in all end-uses other than industrial process refrigeration. On October 26, 1994, OZ Technology, Inc. petitioned EPA to remove Hydrocarbon Blend A from the unacceptable list and add it to the acceptable list. The petition is in Air Docket A–91–42, file number VI-D–76. On July 25, 1995, EPA denied the petition on the basis that the information included in the petition did not include a scientifically valid, comprehensive risk assessment for any CFC–12 end-uses. The denial and the accompanying documentation are in Air Docket A–91–42, file number VI-C–6.

OZ Technology, Inc. submitted Hydrocarbon Blend B as a CFC–12 substitute in a variety of end-uses. On September 18, 1994, EPA issued a proposed rule (59 FR 49108), proposing to find the use of Hydrocarbon Blend B unacceptable as a substitute for CFC–12 in all end-uses other than industrial process refrigeration. On November 4, 1994, OZ Technology, Inc. petitioned EPA to remove Hydrocarbon Blend B from the unacceptable list and add it to the acceptable list. The petition is in Air Docket A–91–42, file number VI-D–75. Because EPA had not yet taken final action placing Hydrocarbon Blend B on the unacceptable list, the petition was premature. EPA denied the petition by taking final action placing Hydrocarbon B on the unacceptable list on June 13, 1995 (60 FR 31092) and by formally denying the petition on July 25, 1995. EPA denied the petition on the basis that the information included in the petition did not include a scientifically valid, comprehensive risk assessment for any CFC–12 end-uses. The denial and accompanying documentation are in Air Docket A–91–42, file number VI-C–7.

ADDRESSES: Information relevant to this notice is contained in Air Docket A–91–42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260–7548. The docket may be inspected between 8:00 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Jeffrey Levy at (202) 233–9727 or fax (202) 233–9577, U.S. EPA, Stratospheric Protection Division, 401 M Street SW., Mail Code 6205J, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time) weekdays.

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the Federal Register on March 18, 1994 (59 FR 13044). Federal Register notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. This Notice can also be retrieved electronically from EPA's Technology Transfer Network (TTN), Clean Air Act Amendment Bulletin Board. If you have a 1200 or 2400 bps modem, dial (919) 541–5742. If you have a 9600 bps modem, dial (919) 541–1447. For assistance in accessing this service, call (919) 541–5384. Finally, this notice may be obtained on the World Wide Web athttp://www.epa.gov/docs/ozone/title6/SNAP/snap.html.

Dated: September 15, 1995.

Richard Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 95–23710 Filed 9–22–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5293–9]

Public Water System Supervision Program: Program Revision for the State of Missouri

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of Missouri is revising its approved State Public Water System Supervision (PWSS) Program. Missouri has adopted regulations for (1) synthetic organic chemicals and inorganic chemicals (Phase II), that correspond to the National Primary Drinking Water Regulations published by EPA on January 30, 1991 (56 FR 3526); (2) volatile organic chemicals (Phase IIb), that correspond to the National Primary Drinking Water Regulations published by EPA on July 1, 1991, (56 FR 32112) (3) synthetic organic chemicals and inorganic chemicals (Phase V), that correspond to the National Primary Drinking Water Regulations published by EPA on July 17, 1992 (57 FR 31776); and (4) lead and copper, that correspond to the National Primary Drinking Water Regulations published by EPA on June 7, 1991 (56 FR 26460).

EPA has determined that these State program revisions are no less stringent than the corresponding Federal regulations. This determination was based upon an evaluation of Missouri's PWSS program in accordance with the requirements stated in 40 CFR 142.10. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted to the Regional Administrator, within thirty (30) days of the date of this Notice, at the address shown below. If a public hearing is requested and

granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action. If no timely and appropriate request for a hearing is received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days from this Notice date.

Insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Requests for a public hearing should be addressed to: Ralph Langemeier, Chief, Drinking Water Branch, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the Federal Register and in newspapers of general circulation in the State of Missouri. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Missouri. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

ADDRESSES: A copy of the primacy application relating to this determination is available for inspection between the hours of 7:30 a.m. and 4:30 p.m., Monday through Friday, at the following locations: U.S. EPA Region VII Drinking Water Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, and the Missouri Department of Natural Resources, Public Drinking Water Program, 101 Jefferson Street, Jefferson City, Missouri 65102.

FOR FURTHER INFORMATION CONTACT: M. Stan Calow, EPA Region VII Drinking Water Branch, at the above address, telephone (913) 551–7410.

Authority: Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations.

Dated: August 14, 1995.

Dennis Grams,

Regional Administrator, EPA, Region VII.

[FR Doc. 95–22331 Filed 9–22–95; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Thursday, October 12, 1995, at 9:30 a.m. to 12:00 noon. The meeting will be held at EX-IM Bank in Room 1143, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

AGENDA: The meeting agenda will include a discussion of the following topics: Overview of the Small Business Plan; Roundtable Discussion on ''Small Business Startegy''; and Next Steps and Other Topics.

PUBLIC PARTICIPATION: The meeting will be open to public participation; and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Cheryl Conlin, Room 1112, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3955, not later than October 11, 1995. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to October 5, 1995, Cheryl Conlin, Room 1112, 811 Vermont Avenue, N.W., Washington, DC 20571, Voice: (202) 565–3957 or TDD: (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: Cheryl Conlin, Room 1112, 811 Vermont Avenue, N.W., Washington, DC 20571, (202) 565–3955.

Carol F. Lee,

General Counsel.

[FR Doc. 95–23723 Filed 9–22–95; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

September 18, 1995.

The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments should be submitted on or before November 24, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

OMB Approval Number: New collection.

Title: Abbreviated Cost of Service Filing For Cable Network Upgrades.

Form No.: FCC 1235.

Type of Review: New Collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments.

Number of Respondents: 2,100.

Estimated Time Per Response: 20 hours.

Total Annual Burden: 42,000 hours.

Needs and Uses: Section 76.922(h) enables cable operators in some circumstances to increase rates when undertaking significant network upgrades. The FCC Form 1235 ''Abbreviated Cost of Service Filing for Cable Network Upgrades'', is to be used by cable operators when undertaking these upgrades. This form allows cable operators to justify rate increases related to capital expenditures used to improve services to regulated cable subscribers. Operators wishing to establish a network upgrade rate increase should file this form following the end of month in which upgrade cable services become available and are providing benefits to the customers. In addition, this form can be filed for pre-approval any time prior to the upgraded services becoming available to the subscribers using projected upgrade costs. If the pre-approval option is exercised, the operator must file the form again following the end of the month in which upgrade cable services become available and are providing benefits to customers of regulated services, using actual costs where applicable.

Fax Document Retrieval Number: 601235.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–23605 Filed 9–22–95; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to OMB for Review

September 20, 1995.

The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). Comments concerning the Commission's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated information techniques are requested.

Persons wishing to comment on this information collection should submit comments on or before September 28, 1995.

Direct all comments to Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561 or via internet at faine_t@a1.eop.gov, and Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below, when prompted.

FCC Report 43–09A was adopted by the Common Carrier Bureau to establish reporting requirements on video dialtone costs and jurisdictional separations for local exchange carriers offering video dialtone service. The report is prescribed for every local exchange carrier that has obtained Section 214 authorization from the Commission to provide video dialtone trials or commercial services.

Affected carriers shall file by June 30, September 30, and December 31 of each year the report for the previous quarter. The initial report will be filed on the last day of the calendar quarter after the end of the calendar quarter in which a carrier received authorization. The report shall be filed on a study area basis.

FCC Report 43–09A provides a quarterly report of wholly dedicated and shared video dialtone investment, expense, and revenue captured in a carrier's subsidiary accounting records. The report line items generally follow those provided in existing FCC Report 43–01, ARMIS Quarterly Report, with minor exceptions. The report columns identify data for each line item by dedicated video dialtone costs and revenues, shared costs and revenues, and video dialtone's portion of shared costs and revenues.

FCC Report 43–09B was adopted by the Common Carrier Bureau to establish reporting requirements on video dialtone costs and jurisdictional separations for local exchange carriers offering video dialtone service. The report is prescribed for every local exchange carrier that has obtained Section 214 authorization from the Commission to provide video dialtone trials or commercial services.

Affected carriers shall file by March 31 of each year the report for the fourth calendar quarter. The report shall be filed on a study area basis.

FCC Report 43–09B provides a fourth quarter report of video dialtone investment, expense, and revenue disaggregated by regulated and nonregulated classification and by jurisdictional categories. The reports summarize the impact of video dialtone on the interstate and intrastate jurisdictions and local telephone rates. The report line items generally follow those provided in existing FCC Report 43–01, ARMIS Quarterly Report, with minor exceptions. The report columns identify data for each line item by total costs and revenues, dedicated video dialtone costs and revenues, shared costs and revenues, video dialtone's portion of shared costs and revenues, total video dialtone costs and revenues, video dialtone's percentage of total costs and revenues, nonregulated and nonregulated video dialtone costs and revenues, and video dialtone costs and revenues subject to separations and those allocated to the intrastate and interstate jurisdictions. OMB approval for these reporting requirements is being requested by September 29, 1995.

OMB Control No.: None.

Title: ARMIS Video Dialtone Quarterly Report; ARMIS Video Dialtone Fourth Quarter Report.

Form Nos.: FCC Report 43–09A; FCC Report 43–09B.

Action: New collection.

Respondents: Businesses or other for-profit.

Frequency of response: Quarterly.

Estimated Annual Burden: 10 respondents; average 462 hours per respondent; 4,620 hours total annual burden.

Needs and Uses: This information is being collected in conjunction with the Common Carrier Bureau's Order Inviting Comment, DA 95–1409, AAD No. 95–59 (released June 23, 1995), that proposed the content and format of video dialtone reports initiated by the Commission's Video Dialtone Reconsideration Order, 10 FCC Rcd 244 (November 7, 1994). The reports will enable the Commission, State regulatory agencies, local exchange carriers (''LECs''), and other interested parties to analyze LECs' video dialtone investment, revenue, and costs. Specifically, the data will allow the Commission to monitor the implementation of video dialtone service, to assist the Commission in ensuring that local telephone service ratepayers do not absorb any of the costs of a LEC's video dialtone operations, to track the impact of video dialtone on jurisdictional separations and local

telephone rates, and to aid the Commission in its tariff review process.

Document Retrevial Number: 604309.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–23773 Filed 9–22–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1065–DR]

Ohio; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1065–DR), dated August 25, 1995, and related determinations.

EFFECTIVE DATE: September 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio dated August 25, 1995, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 25, 1995:

Washington County for Individual Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–23699 Filed 9–22–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1068–DR]

Commonwealth of Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–1068–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: September 16, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 16, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico, resulting from Hurricane Marilyn on September 15, 1995 and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a disaster exists in the Commonwealth of Puerto Rico.

You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the disaster on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the disaster. I have further authorized direct Federal assistance for the first 72 hours at 100 percent Federal funding.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Individual Assistance, Public Assistance or Hazard Mitigation Assistance may be provided at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act except as noted in the paragraph above will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jose Bravo of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the Commonwealth of Puerto Rico to have been affected adversely by this declared major disaster:

The Commonwealth of Puerto Rico for assistance as follows: FEMA is authorized to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the disaster. Direct Federal assistance is authorized for the first 72 hours at 100 percent Federal funding.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–23700 Filed 9–22–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1068–DR]

Commonwealth of Puerto Rico; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico, (FEMA–1068–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Puerto Rico dated September 16, 1995, is hereby amended to include Individual Assistance, Public Assistance and Hazard Mitigation Assistance in the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 16, 1995:

The municipalities of Culebra and Vieques for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–23701 Filed 9–22–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1067–DR]

U.S. Virgin Islands; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the U.S. Virgin Islands (FEMA–1067–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Dennis Kwiatkowski of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Joseph Picciano as Federal Coordinating Officer for this disaster.

The notice of a major disaster for the U.S. Virgin Islands dated September 16, 1995, is hereby amended to include the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 16, 1995:

The Islands of St. Croix, St. John, and St. Thomas for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–23702 Filed 9–22–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1067–DR]

U.S. Virgin Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the U.S. Virgin Islands (FEMA–1067–DR), dated September 16, 1995, and related determinations.

EFFECTIVE DATE: September 16, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 16, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in the U.S. Virgin Islands, resulting from Hurricane Marilyn on September 15, 1995 and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a disaster exists in the U.S. Virgin Islands.

You are authorized to coordinate all disaster relief efforts which have the purpose of alleviating the hardship and suffering caused by the disaster on the local population, and to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the disaster. I have further authorized direct Federal assistance for the first 72 hours at 100 percent Federal funding.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Individual Assistance, Public Assistance or Hazard Mitigation Assistance may be provided at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act except as noted in the paragraph above will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Joseph Picciano of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the U.S. Virgin Islands to have been affected adversely by this declared major disaster:

The U.S. Virgin Islands for assistance as follows: FEMA is authorized to provide appropriate assistance for required emergency measures, authorized under Title IV of the Stafford Act, to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe in the designated areas. Specifically, FEMA is authorized to identify, mobilize, and provide at your discretion, equipment and resources necessary to alleviate the impacts of the disaster. Direct Federal assistance is authorized for the first 72 hours at 100 percent Federal funding.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–23703 Filed 9–22–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232–011513.

Title: HMM/K-Line Space Charter Agreement.

Parties: Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd.

Synopsis: The proposed Agreement permits the parties to charter space from one another. In addition, the parties may consult and agree upon the operation, deployment and utilization, and rationalization of vessels in the trade between ports in Asia, the Mid-East and ports on the U.S. Pacific Coast, including Alaska, and inland U.S. points via such ports.

Agreement No.: 232–011514.

Title: Kline/Yangming Transpacific Rationalization and Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd., Yangming Marine Transport Corporation.

Synopsis: The proposed Agreement permits the parties to charter space from

one another. In addition, the parties may consult and agree upon the operation, deployment and utilization, and rationalization of vessels in the trade between ports in Asia, the Mid-East, Australia and New Zealand and ports on the U.S. Pacific Coast, including Alaska, and inland U.S. points via such ports.

By Order of the Federal Maritime Commission.

Dated: September 19, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–23642 Filed 9–22–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Ayma Cargo Corp., 4408 N.W. 74th Avenue, Miami, FL 33166; Officers: Andres Amorosi, President; Santiago Maggi, Vice President.

Joseph Industries, Inc. dba Joseph International Freight Services, 848 Newell Avenue, Muscatine, IA 52761; Officers: Raul Anthony Joseph, President; Ralph Joseph, Treasurer.

J.B. Rothenberg & Co., Inc. dba J.B.R. Shipping, 43 Redwood Avenue, Edison, NJ 08817; Officers: John B. Rothenberg, President; Chi-Pei Chen, Vice President.

Action Worldwide Cargo Services, 16515 Hedgecroft, Suite 302, Houston, TX 77060; Nancy S. Frederick, Sole Proprietor.

Advante Customs Broker and Freight Forwarders Inc., 529 Commercial Street, Fourth FL, San Francisco, CA 94111; Officers: Dale M.A. Zerda, President; Deborah Ann Zerda-Andrews, Vice President.

International Cargo Services, Inc., 139 Mitchell Avenue, #277, So. San Francisco, CA 94080; Officers: Seymour A. Hills, President; Marcia A. Hills, Vice President.

By the Federal Maritime Commission.

Dated: September 19, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–23638 Filed 9–22–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bancol y Cia. S. en C.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than October 19, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Jaime Gilinski y Cia. S. en C., PBZ Ltda. y Cia. S. en C., Raquel Kardonski y Cia. S. en C., Isaac Gilinski y Cia. S. en C., Perla Bacal de Gilinski y Cia. S. en C. (collectively, Companies), and Bancol y Cia. S. en C. (Bancol), all of Santa Fe de Bogota, Colombia, to become bank holding companies and to retain, indirectly, all the voting securities of Eagle National Holding Company, and thereby retain 99.2 percent of the voting securities of Eagle National Bank of Miami, N.A., both of Miami, Florida. Applicants, in the aggregate, own all the voting securities of Bancol, which controls the power to vote 74.9 percent of the voting securities of Banco de Colombia, S.A., Santa Fe de Bogota, Colombia. In addition, Banco de Colombia, S.A., which indirectly owns all the voting securities of Eagle National Holding Company, Inc., proposes to acquire and directly own such shares.

Board of Governors of the Federal Reserve System, September 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–23672 Filed 9–22–95; 8:45 am]

BILLING CODE 6210–01–F

First Financial Bankshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than October 19, 1995.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. First Financial Bankshares, Inc., Abilene, Texas, and First Financial Bankshares of Delaware, Inc. Wilmington, Delaware; to acquire Citizens Equity Corporation, Weatherford, Texas, and thereby indirectly acquire Citizens National Bank, Weatherford, Texas.

In connection with this application, First Financial Bankshares of Delaware, Inc., Wilmington, Delaware; also has applied to merge with Citizens Equity Corporation, Weatherford, Texas.

Board of Governors of the Federal Reserve System, September 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–23673 Filed 9–22–95; 8:45 am]

BILLING CODE 6210–01–F

Norwest Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire AMFED Financial, Inc., Reno, Nevada, and thereby acquire American Federal Savings Bank, Reno, Nevada, and thereby engage in operating a savings and loan association, pursuant to § 225.25(b)(9) of the Board's Regulation Y; and engage in the originating and purchasing of loans secured by single-family residential real estate and to a lesser extent, originating multi-family, commercial real estate, consumer, construction and other loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y. AMFED also acts as a trustee under deeds of trust, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–23674 Filed 9–22–95; 8:45 am]

BILLING CODE 6210–01–F

Waterhouse Investor Services, Inc.; Notice to Engage in Certain Nonbanking Activities

Waterhouse Investor Services, Inc., New York, New York (Notificant), has provided notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to transfer certain securities activities from its subsidiary, Waterhouse Securities, Inc., New York, New York, to a *de novo* subsidiary, National Investor Services Corp., New York, New York (Company), and thereby engage in executing and clearing securities transactions and providing related services. Company's proposed securities-related activities would include providing clearing-only services. Notificant maintains that the Board previously has determined that the proposed activities are closely related to banking. *See* 12 CFR 225.25(b)(15); *BankAmerica Corporation*, 69 Federal Reserve Bulletin 105 (1983); *The Bank of New York Company, Inc.*, 74 Federal Reserve Bulletin 257 (1988). Notificant also maintains that its proposal would produce benefits to the public, such as gains in efficiency and increased competition, that would outweigh any possible adverse effects. These activities would be conducted throughout the United States.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 11, 1995. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, September 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–23675 Filed 9–22–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Health Care Policy and Research; Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of October 1995:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: October 26, 1995, 8:30 a.m.

Place: The DoubleTree Hotel, 1750 Rockville Pike, Conference Room TBA, Rockville, Maryland 20852.

Open October 26, 8:30 a.m. to 9:30 a.m.

Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications on research that will provide convincing evidence for, or against, the effectiveness and cost effectiveness of alternative clinical interventions used to prevent, diagnose, treat, and manage common clinical conditions.

Agenda: The open session of the meeting on October 26, from 8:30 a.m. to 9:30 a.m., will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C.,

Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–2462.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: September 14, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–23604 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–90–M

Food and Drug Administration

[Docket No. 95N–0297]

Animal Drug Export; Syntex® Plus™ Implant

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Syntex Animal Health has filed an application requesting approval for export of the animal drug Syntex® Plus™ (trenbolone acetate and estradiol benzoate) Implant to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1646.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Syntex Animal Health, Division of Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, has filed application number 6242 requesting approval for export of the animal drug Syntex® Plus™ (trenbolone acetate and estradiol benzoate) Implant to Canada. The drug is an implant consisting of 8 pellets and it contains 200 milligrams (mg) of trenbolone acetate plus 28 mg of estradiol benzoate. The implant is to be used to increase weight gain and improve feed efficiency in feedlot steers and heifers. The application was received and filed in the Center for Veterinary Medicine on August 30, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by October 5, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: September 8, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–23685 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0255]

GE Silicones; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that GE Silicones has filed a petition proposing that the food additive regulations be amended to provide for the safe use of vinyl-containing siloxanes as a coating on paper and paperboard in contact with food and to provide for the safe use of 1-ethynyl-1-cyclohexanol as an optional inhibitor for the additive. It is also proposed that the regulations be amended to increase the level of platinum catalyst used in the manufacture of vinyl-containing siloxanes to 200 parts per million (ppm).

DATES: Written comments on the petitioner's environmental assessment by October 25, 1995

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3086.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B4475) has been filed by GE Silicones, c/o 700 13th St., NW., Washington, DC 20005. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of vinyl-containing siloxanes as a component of coatings for paper and paperboard in contact with food and to provide for the safe use of 1-ethynyl-1-cyclohexanol as an optional inhibitor for the additive. It is also proposed that the regulations be amended to increase the level of platinum catalyst used in the manufacture of vinyl-containing siloxane to 200 ppm.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on

public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before (*insert date 30 days after date of publication in the* Federal Register), submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: September 13, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–23596 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Science Board to the Food and Drug Administration

Date, time, and place. November 6, 1995, 8:30 a.m., DoubleTree Hotel—National Airport, Washington Room, 300 Army Navy Dr., Arlington, VA.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 5 p.m.; Susan A. Homire, Office of Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3340, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Science Board to the Food and Drug Administration, code 12603.

General function of the board. The board shall provide advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science; on formulating an appropriate research agenda; and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency sponsored intramural and extramural scientific research programs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the board. Those desiring to make formal presentations must notify the contact person before October 23, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, and the names and addresses of proposed participants. Each presenter will be limited in time and not all requests to speak may be able to be accommodated. All written statements submitted in a timely fashion will be provided to the board.

Open committee discussion. The board will discuss issues related to the safety testing of biomaterials used in products regulated by FDA. The discussion is designed to give the agency direction for future program development.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will

be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: September 14, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 94–23597 Filed 9–22–94; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Special Project Grants; Maternal and Child Health (MCH) Services; Federal Set-Aside Program

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Notice of limited competition.

SUMMARY: The Health Resources and Services Administration is announcing acceptance for review and funding, if approvable, of an application from the American Academy of Obstetricians and Gynecologists (ACOG) for a Maternal and Child Health (MCH) Special Project of Regional and National Significance (SPRANS) grant. The award will be made under the program authority of section 502(a) of the Social Security Act, the MCH Federal Set-Aside Program, from funds appropriated for fiscal year 1995 under Public Law 103–333. The MCH SPRANS grants are intended to improve the health of mothers and children through development and dissemination of new knowledge, demonstration of new or improved ways of delivering care or otherwise enhancing Title V program capacity to provide or assure provision of appropriate services, and preparation of personnel in MCH-relevant disciplines.

The purpose of this limited competition is to extend and enhance support of an existing grant through which ACOG is stimulating office-based research by its members. The information collected will be used to effect changes in the practices and standards of care provided by practitioners that improve access to care, efficacy of interventions, health status of the women being served, and pregnancy outcomes. The American Academy of Obstetricians and Gynecologists is the only national organization of and for obstetric and gynecologic practitioners and is, thus, the only organization with both the necessary access to the practitioners and the professional standing to effect changes in practice and standards of care.

Grant/Amount

A single grant, of approximately $142,000, will be awarded. The project period will be 5 years.

Eligibility

Eligibility for application and funding is limited to the American College of Obstetricians and Gynecologists.

FOR FURTHER INFORMATION CONTACT: For programmatic or technical information on MCH issues, contact Mr. James Papai, 5600 Fishers Lane, Room 18A–55, telephone: 301 443–2190. For information concerning business management issues, contact Ms. Dorothy M. Kelley, Grants Management Branch, Maternal and Child Health Bureau, Room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, telephone: 301 443–1440.

Provision of Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect the physical and mental health of the American people.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to state and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project PHSIS, not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

The MCH Federal Set-Aside Program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: September 19, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–23602 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–15–P

Special Project Grants; Maternal and Child Health (MCH) Services; Federal Set-Aside Program; Research and Training Grants

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration is announcing the availability of fiscal year (FY) 1995 funds for a limited competition for Maternal and Child Health (MCH) Special Projects of Regional and National Significance (SPRANS) research and training grants. Supplemental awards will be made under the program authority of section 502(a) of the Social Security Act, the MCH Federal Set-Aside Program. The MCH research and training grants improve the health status of mothers and children through: development and dissemination of new knowledge; demonstration of new or improved ways of delivering care or otherwise enhancing Title V program capacity to provide or assure provision of appropriate services; and preparation of personnel in MCH-relevant specialties.

The purpose of this limited competition is to support supplemental awards for Maternal and Child Community Health Science Consortia (MC^2HSC). The central, defining characteristic of the MC^2HSC concept is that this entity is to evolve out of the maternal and child health infrastructure and services systems already in place in the community or neighborhood where the Consortium is to be located.

A joint research and training activity, the MC^2HSC is part of the MCHB commitment to enhance essential public health functions and academic/community problem solving partnerships. The MC^2HSC will contribute to the definition and advancement of MCH science and undertake applied community-based research regarding the content, organization and delivery of maternal and child health care, systems performance and outcome assessments. It will be an entity designed to undertake short and long-term, carefully designed, research and development efforts related to community-based problem solving regarding the content, organization, and delivery of maternal and child health care.

Consortia are expected to establish relationships with existing service delivery units and/or, where necessary, develop program components that will be used independently, or in conjunction with other components, to form problem-specific solutions. These service program components will form the basis to explore, investigate, evaluate and modify standard public health practices and/or interventions in order to translate science into practice consistent with the Healthy Children 2000 objectives.

Competition is limited to MCHB funded training programs in schools of public health. These programs are uniquely qualified by virtue of the faculty and resources available to them as a result of the training grants they receive, as well as the mission embodied in those grants to engage in research and scholarly activities relative to community-based MCH programs. The activities and results of these scholarly pursuits are expected to enhance the training supported through the extant training grants. Schools of public health not receiving MCH training grants have neither the extensive resources nor the mission to carry out these complementary research/training activities. The MC^2HSC is intended to serve as a locus for the conduct of doctoral research, or employment of students to conduct studies or perform services necessary for accomplishment of the mission of the Consortium.

Grants/Amounts: Up to $500,000 will be available to support up to two supplemental awards in the amount of $250,000 per award.

Eligibility: Eligibility for funding is limited to the Maternal and Child Health funded training programs in thirteen schools of public health. The MCH-funded training programs at schools of public health are located at the following Universities: Harvard, Johns Hopkins, Columbia, Boston, California at Berkeley, California at Los Angeles, North Carolina, Minnesota, Hawaii, Puerto Rico, Alabama, Illinois, and Washington.

DATES: All eligible applicants have received the materials necessary for development and submission of an application and were advised to notify the Research and Training Branch by July 21, 1995 of intent to submit an application. This notice will inform the public of this grant award competition.

FOR FURTHER INFORMATION CONTACT: For programmatic or technical information on MCH issues, contact Mr. James Papai, 5600 Fishers Lane, Room 18A–55, telephone: 301 443–2190. For information concerning business management issues, contact Ms. Dorothy M. Kelley, Grants Management Branch, Maternal and Child Health Bureau, Room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, telephone: 301 443–1440.

Provision of Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect the physical and mental health of the American people.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to state and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project PHSIS, not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State and local health agencies.

Executive Order 12372

The MCH Federal set-aside program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.110.

Dated: September 19, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–23686 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–15–P

Notice Regarding the Federally Supported Health Centers Assistance Act of 1992

AGENCY: Health Resources and Services Administration.

ACTION: Notice.

SUMMARY: On May 8, 1995, the Secretary of Health and Human Services published a final rule implementing certain provisions of the Federally Supported Health Centers Assistance Act of 1992 (the Act). The Act provides for liability protection for certain grantees of the Public Health Service and for certain individuals associated with these grantees. The Health Resources and Services Administration is the agency within the Department responsible for administering certain aspects of the Act. This notice provides further guidance regarding the final rule.

FOR FURTHER INFORMATION CONTACT: Richard C. Bohrer, Director, Division of Community and Migrant Health, Bureau of Primary Health Care, Health Resources and Services Administration, 4350 East West Highway, Bethesda, Maryland 20814, Phone: (301) 594–4300.

SUPPLEMENTARY INFORMATION: Section 224(a) of the Public Health Service (PHS) Act (42 U.S.C. 233 (a) provides that the remedy against the United States provided under the Federal Tort Claims Act (FTCA) resulting from the

performance of medical, surgical, dental or related functions by any commissioned officer or employee of the PHS while acting within the scope of his office or employment shall be exclusive of any other civil action or proceeding. The Federally Supported Health Centers Assistance Act of 1992 (Public Law 102–501) provides that, subject to its provisions, certain entities and officers, employees and contractors of entities shall be deemed to be employees of the PHS within exclusive remedy provision of section 224 (a).

The final rule implementing Public Law 102–501 was published in the Federal Register (60 FR 22530) on May 8, 1995, and adds a new Part 6 to 42 CFR Chapter 1. Part 6 describes the eligible entities and the covered individuals who are within the scope of the FTCA protection afforded by the Act.

Section 6.6 of the final rule describes the acts and omissions that are covered by the Act. Paragraph (d) of that section states that only acts and omissions related to the grant-supported activity of covered entities are covered. That paragraph goes on to provide that:

Acts and omissions related to services provided to individuals who are not patients of a covered entity will be covered only if the Secretary determines that

(1) The provision of the services to such individuals benefits patients of the entity and general populations that could be served by the entity through community-wide intervention efforts within the communities served by such entity;

(2) The provision of the services to such individuals facilitates the provision of services to patients of the entity; or

(3) Such services are otherwise required to be provided to such individuals under an employment contract or similar arrangement between the entity and the covered individual.

Paragraph (e) of 6.6 provides examples of situations within the scope of paragraph (d). Questions have been raised, however, about the specific situations encompassed by 6.6(d) and about the process for the Secretary to make the determinations provided by that paragraph. The purpose of this notice is to address those questions.

We have decided that it would be impractical and burdensome to require a separate application and determination of coverage for the situations described in the examples set forth in 6.6(e). Accordingly, for the specific cases described in those examples, and discussed further below, the Department hereby determines that coverage is provided under 6.6(d), without the need for specific application. (This determination assumes, of course, that other requirements of coverage have been met, such as a determination that the entity is a covered entity and a determination that the individual is a covered individual. Furthermore, we reiterate the statement in the preamble to the final rule that acts or omissions by individuals that are not within the scope of employment, e.g., moonlighting activities, are not covered.)

While the situations described below have hereby been determined to be within the scope of 6.6(d), covered entities may apply for specific determinations of coverage under that section. If, for example, the covered entity is unsure whether its particular arrangement falls within the scope of example 2, it may apply for a particularized determination as to that arrangement. Entities should be painstakingly exact in this regard. If any element of the activity or arrangement in question does not fit squarely into the examples below, a particularized determination on coverage should be sought. As to situations that may fall within the scope of 6.6(d), but are not described in the three examples, covered entities are expected to apply for particularized determinations.

Example I. Community-Wide Interventions

(a) School-Based Clinics: Health center staff provide primary and preventive health care services at a facility located in a school or on school grounds. The health center has a written affiliation agreement with the school.

(b) School-Linked Clinics: Health center staff provide primary and preventive health care services, at a site not located on school grounds, to students of one or more schools. The health center has a written affiliation agreement with each school.

(c) Health Fairs: Health center staff conduct an event to attract community members for purposes of performing health assessments. Such events may be held in the health center, outside on its grounds, or elsewhere in the community.

(d) Immunization Campaign: Health center staff conduct an event to immunize children against infectious childhood illnesses. The event may be held at the health center, schools, or elsewhere in the community.

(e) Migrant Camp Outreach: Health center staff travel to a migrant farmworker residence camp to conduct intake screening to determine those in need of clinic services (which may mean health care is provided at the time of such intake activity or during subsequent clinic staff visits to the camp).

(f) Homeless Outreach: Health center staff travel to a shelter for homeless persons, or a street location where homeless persons congregate, to conduct intake screening to determine those in need of clinic services (which may mean health care is provided at the time of such intake activity or during subsequent clinic staff visits to that location).

Example II. Hospital-Related Activities

Periodic hospital call or hospital emergency room coverage, as required by the hospital as a condition for obtaining hospital admitting privileges. There must also be documentation for the particular health care provider that this coverage is a condition of employment at the health center.

Example III. Coverage-Related Activities

As part of a health center's arrangement with local community providers for after-hours coverage of its patients, the health center's providers are required by their employment contract to provide periodic or occasional cross-coverage for patients of these providers.

Dated: September 19, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–23601 Filed 9–22–95; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–300–1020–00–241A]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau's Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–

0041), Washington, DC 20503, Telephone 202–395–7340.

Title: Grazing preference Statement.

OMB Approval Number: 1004–0041.

Abstract: This form is used as a grazing permit or annual authorization application which states the recognized preference (use) as a reminder and allows the applicant to show requested changes for the coming grazing season.

Bureau Form Number: 4130–3.

Frequency: Annually.

Description of Respondents: Livestock grazing permittees using the public lands.

Estimated Completion Time: 14 minutes.

Annual Responses: 7,665.

Annual Burden Hours: 1,794.

Bureau Clearance Office (alternate): Wendy Spencer (303) 236–6642.

Dated: August 14, 1995.

W. Hord Tipton,

Assistant Director Resources Use and Protection.

[FR Doc. 95–23649 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–84–M

[WO–340–1231–00]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information, related forms, and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0133), Washington, DC 20503, telephone number 202–395–7340.

Title: Permit Fee Envelope, 36 CFR 71.

OMB Approval Number: 1004–0133.

Abstract: Respondents supply identifying information and data on the campsite number, dates camping, number in party, zip code, fee paid, vehicle license number, and primary purpose of visit. This information allows the Bureau of Land Management to determine if all users have paid the required fee, the number of users, and their State of origin.

Bureau Form Number: 1370–36.

Frequency: On occasion.

Description of Respondents: Individuals desiring to use the campground.

Estimated Completion Time: 3 minutes.

Annual Responses: 108,000.

Annual Burden Hours: 5,400.

Bureau Clearance Officer: Wendy Spencer 303–236–6642.

Dated: August 10, 1995.

Daniel Dick,

Team Leader—Use Authorization.

[FR Doc. 95–23650 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–84–M

[WO–340–1231–00]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information, related forms, and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0119), Washington, D.C. 20503, telephone 202–395–7340.

Title: Special Recreation Application and Permit Form.

OMB Approval Number: 1004–0119.

Abstract: Respondents supply identifying information and data on proposed commercial, competitive, or individual recreational use, respectively, when required, to determine eligibility for a permit. This information allows the Bureau of Land Management to authorize requested use and determine appropriate fees. This information will also be used to tabulate recreation use data for the annual Federal Recreation Fee Report as required by the Land and Water Conservation Act.

Bureau Form Number: 8370–1.

Frequency: On occasion.

Description of Respondents: Recreation visitors to areas of the public lands, and related waters, where special recreation permits are required.

Estimated Completion Time: .45 hours.

Annual Responses: 18,000.

Annual Burden Hours: 8,100.

Bureau Clearance Officer: Wendy Spencer 303–236–6642.

Dated: August 10, 1995.

Daniel Dick,

Team Leader—Use Authorization.

[FR Doc. 95–23651 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–84–M

[CA–010–05–1430–01: CA–35242]

Notice of Realty Action; Direct Sale of Public Land, Tuolumne County, CA

AGENCY: Dept. of the Interior, Bureau of Land Management.

REALTY ACTION: Direct sale of public land, Tuolumne County, CA–35242.

SUMMARY: The following described public land (surface and mineral) is being considered for direct sale pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1713 and 1719):

Tuolumne County, California

T. 2 N., R. 14 E., M.D.N.

Sec. 24: lots 13, and 14.

Containing 1.85 acres, more or less.

The above-described parcels of public land would be sold to Mrs. Carrie Carter through a direct land sale at fair market value. An additional $50.00 non-returnable mineral conveyance processing fee would be required. The disposal of this land will resolve a longstanding trespass issue.

The parcels would be transferred subject to a reservation to the United States for a right-of-way for ditches and canals. The transfer of land would also be subject to rights-of-way granted to Tuolumne County Water Agency (CA–3196) and Pacific Bell (S–047590). All necessary clearances including clearances for archaeology and for rare plants and animals would be completed prior to any conveyance of title by the U.S.

The above described lands are hereby segregated from settlement, location and entry under the public land laws and the mining laws for a period of 270 days from the date of publication of this notice in the Federal Register.

ADDRESSES: Interested parties may submit comments to the District Manager, c/o Folsom Resource Area Manager, 63 Natoma Street, Folsom, California 95630. Comments must be received within 45 days from date of publication of this notice in the Federal Register.

FOR ADDITIONAL INFORMATION:

Contact Marianne Wetzel at (916) 985–4474 or at the address above.

D.K. Swickard,

Area Manager.

[FR Doc. 95–23076 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–40–M

[CA–010–05–1430–01: CA–34953 & CA–34954]

Notice of Realty Action; Direct Sale of Public Lands, Nevada County, CA

AGENCY: Dept. of the Interior, Bureau of Land Management.

REALTY ACTION: Direct sale of public lands, Nevada County, CA–34953 and CA–34954.

SUMMARY: The following described public lands (surface and mineral) are being considered for direct sale pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1713 and 1719):

CA–34953: Nevada County, California

T. 16 N., 9 E., M.D.M.
Sec. 6: lot 5 (portion of).
Containing 2 acres, more or less.

and

CA–34954:

T. 16 N., R. 8 E., M.D.M.
Sec. 6: portion of the NW¼SE¼SE¼
Containing 1 acre, more or less.

The above-described parcels of public land would be sold to Mr. Austin Somerton and Mr. Harry Culp, respectively, each through a direct land sale at fair market value. An additional $50.00 non-returnable mineral conveyance processing fee would be required from each party. A Cadastral land survey, lotting the lands, will be completed prior to disposing them. The disposal of these lands will resolve long-standing trespass issues.

The parcels would be transferred subject to a reservation to the United States for a right-of-way for ditches and canals. All necessary clearances including clearances for archaeology and for rare plants and animals would be completed prior to any conveyance of title by the U.S.

The above described lands are hereby segregated from settlement, location and entry under the public land laws and the mining laws for a period of 270 days from the date of publication of this notice in the Federal Register.

ADDRESSES: Interested parties may submit comments to the District Manager, c/o Folsom Resource Area Manager, 63 Natoma Street, Folsom, California 95630. Comments must be received within 45 days of publication of this notice in the Federal Register.

FOR ADDITIONAL INFORMATION CONTACT: Contact Marianne Wetzel at (916) 985–4474 or at the address above.

D.K. Swickard,

Area Manager.

[FR Doc. 95–23707 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to issue a concession contract for operation currently conducted by Gettysburg Tours, Inc. authorizing the continuation of shuttle bus services for the public at Eisenhower National Historic Site, Gettysburg, Pennsylvania for a period of five (5) years from May 14, 1995 through May 14, 2000.

EFFECTIVE DATE: November 24, 1995.

ADDRESSES: Interested parties should contact the Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325–2804, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligation to the satisfaction of the Secretary under an existing contract which expired by limitation of time on May 14, 1994, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR, Section 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60) day following publication of this notice to be considered and evaluated.

Dated: September, 18, 1995.

Joan Krall,

Acting Director, Northeast Field Area.

[FR Doc. 95–23731 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32630]

Omaha Public Power District (OPPD)—Construction of a Rail Line in Otoe County, NE

The Omaha Public Power District (OPPD) has petitioned the Interstate Commerce Commission (Commission) for authority to construct and operate a 4.6 mile rail line near Nebraska City, Nebraska. The Commission's Section of Environmental Analysis (SEA) has prepared an Environmental Assessment (EA). Based on the information provided and the environmental analysis conducted to date, this EA concludes that this proposal should not significantly affect the quality of the human environment if the recommended mitigation measures set forth in the EA are implemented. Accordingly, SEA preliminarily recommends that the Commission impose on any decision approving the proposed construction and operation conditions requiring OPPD to implement the mitigation contained in the EA. The EA will be served on all parties of record as well as all appropriate Federal, state and local officials and will be made available to the public upon request. SEA will consider all comments received in response to the EA in making its final environmental recommendations to the Commission. The Commission will then consider SEA's final recommendations and the environmental record in making its final decision in this proceeding.

Comments (an original and 10 copies) and any questions regarding this Environmental Assessment should be filed with the Commission's Section of Environmental Analysis, Office of Economic and Environmental Analysis, Room 3219, Interstate Commerce Commission, Washington, D.C. 20423, to the attention of Michael Dalton (202) 927–6202. Requests for copies of the EA should also be directed to Mr. Dalton.

Date made available to the public: September 25, 1995.

Comment due date: October 25, 1995.

By the Commission, Elaine K. Kaiser, Chief, Section of Environmental Analysis, Office of Economic and Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 95–23691 Filed 9–22–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32750]

RailAmerica, Inc.—Control Exemption—Prairie Holding Corporation and Dakota Rail, Inc.

RailAmerica, Inc. (RailAmerica), has filed a notice of exemption to acquire control, through stock purchase, of Dakota Rail, Inc. (Dakota). Dakota, a class III rail carrier, operates 43.66 miles of rail line from Wayzata, MN, where it connects with the lines of the Burlington Northern Railroad Company, to Hutchinson, MN.

RailAmerica, a noncarrier holding company, also controls Huron and Eastern Railway Company, Inc. (HESR), the Saginaw Valley Railway Company (SGVY), the South Central Tennessee Railroad Company (SCTR), and the Delaware Valley Railway Company (DVR).[1] Under the terms of an agreement with Prairie Holding Corporation, a holding company, RailAmerica will acquire all of the outstanding stock of Prairie and all of the outstanding stock of Prairie's wholly owned subsidiary, Dakota.[2] After consummation, RailAmerica will be in control of five nonconnecting class III rail carriers.[3] The proposed control transaction was scheduled for consummation on or after September 1, 1995.

RailAmerica indicates that: (1) The lines operated by Dakota do not connect with any rail lines operated by any rail carrier within its corporate family; (2) the involved transaction is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad within its corporate family; and (3) the transaction does not involve a class I carrier. The transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2). The purpose of the transaction is to preserve and enhance rail service on a light density rail line. RailAmerica anticipates that it will be able to attract more rail service to the line than is presently being provided by offering lower costs, more frequent service, an improved car supply, and funded capital improvements enabling Dakota to handle heavier shipments for certain customers.

As a condition to the use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).[4]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time.[5] The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Robert L. Calhoun, 1025 Connecticut Avenue, N.W., Suite 1000, Washington, DC 20036.

Decided: September 19, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–23724 Filed 9–22–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32663]

Burlington Northern Railroad Company—Trackage Rights Exemption—Missouri Pacific Railroad Company

The Missouri Pacific Railroad Company has agreed to grant overhead trackage rights to Burlington Northern Railroad Company on approximately 0.5 miles of rail line extending between milepost 435.32 and milepost 435.81 at Nebraska City, NE. The trackage rights were to become effective on September 14, 1995.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Michael E. Roper, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: September 19, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–23692 Filed 9–22–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 72–344 (AGS)]

United States v. International Business Machines Corporation; Proposed Final Judgment Termination

Take Notice that International Business Machines Corporation (''IBM''), defendant in this antitrust action, has filed a motion for an order terminating the final judgment entered by the United States District Court for the Southern District of New York on January 25, 1956 (the ''Final Judgment''). The United States of America, plaintiff, has tentatively consented to IBM's motion in certain respects, but has reserved the right to withdraw its consent for at least 90 days after publication of this Notice. The Complaint, Final Judgment and proposed termination are further described below.

This Notice relates solely to those aspects of the Final Judgment to which the United States has tentatively consented to termination. A further notice will be published before any action on IBM's termination motion as it applies to the remainder of the Final Judgment. Prior to entry of an order terminating any aspect of the Final Judgment, the Court and the parties will consider public comments. Any such comments on the proposed terminations described in this Notice must be filed within 60 days.

The Final Judgment was entered by consent between IBM and the United States, settling an action filed on January 21, 1952. The Complaint in that action alleged that IBM had monopolized, attempted to monopolize and restrained trade in the tabulating industry, in violation of Sections 1 and

[1] Common control of these carriers was approved by the Commission in: (1) *John H. Marino, Eric D. Gerst, and Mariner Corporation—Control Exemption—Saginaw Valley Railway Company, Inc.*, Finance Docket No. 31196 (ICC served Apr. 23, 1991); (2) *RailAmerica, Inc.—Control Exemption—South Central Tennessee Railroad Company*, Finance Docket No. 32421 (ICC served Jan. 18, 1994); and (3) *RailAmerica, Inc.—Continuance in Control Exemption—Delaware Valley Railway Company, Inc.*, Finance Docket No. 32534 (ICC served Aug. 31, 1994).

[2] By decision served September 18, 1995, the Commission's Secretary granted a motion for a protective order regarding the stock purchase agreement.

[3] HESR and SGVY connect with each other, but none of the rail carriers connects with Dakota.

[4] Although RailAmerica states that no employees will be adversely affected by the transaction, it recognizes that the Commission may not relieve a carrier of labor protection obligations for section 11343 transactions. 49 U.S.C. 11347.

[5] By letter filed September 5, 1995, the Minnesota Department of Transportation (MNDOT) expresses opposition to the transaction pending its review of whether the sale of Dakota complies with laws and existing agreements to protect the public interest. The notice satisfies the Commission's class exemption provisions under 49 CFR 1180.2(d) and will be published. MNDOT may file a petition to revoke the exemption if it concludes, after its review of the transaction, that grounds for revocation exist.

2 of the Sherman Act. Among other things, the Complaint alleged that IBM had restrained the development and growth of: other manufacturers of tabulating machines, attachments for tabulating machines and tabulating cards; businesses involved in the purchase and sale of used tabulating machinery; independent service bureaus; maintenance and repair businesses and parts businesses. The Complaint alleged that IBM only leased, and refused to sell, tabulating machines. Through its lease agreements, IBM allegedly: charged lessees a single price for machine rental, instruction and repair and maintenance; limited machine uses; restricted attachments to, alterations in, or experimentation with such machines; and required grant backs of any inventions resulting from a breach of the prohibition on experimentation. The Complaint alleged that IBM operated its service bureaus to preempt demand for the products of other manufacturers and restrained the growth of independent service bureaus by discriminating in favor of its own service bureau.

The Final Judgment applies to IBM's conduct with respect to tabulating machines and cards, both of which IBM has not manufactured for many years, and ''electronic data processing machines.'' Certain provisions of the Final Judgment have expired or no longer apply to IBM's business. However, other provisions of the Final Judgment continue to apply to IBM's electronic data processing machine business.

The United States has tentatively agreed to terminate certain sections of the Final Judgment in their entirety: (a) Sections V(b) and (c), which require IBM to offer to sell at no more than specified prices and for a specified period used IBM machines that IBM acquires pursuant to trade-ins or as a credit against sums then or thereafter payable to IBM; and (b) Section VIII, which specifies conditions under which IBM may engage in ''service bureau business,'' as defined by Section II(k) of the Final Judgment. Section VIII requires IBM to conduct its service bureau business through a subsidiary that is required to charge prices for services it renders based upon rates that fairly reflect all expenses properly chargeable to the subsidiary, except that the service bureau subsidiary may reduce any price to meet a competitor's price. Section VIII also prohibits IBM from providing machines to its service bureau subsidiary except on the same terms and conditions that are available to other service bureaus.

The United States also has tentatively agreed to terminate all other provisions of the Final Judgment except as they apply to the System/360 . . . 390 and AS/400 families of products and services (insofar as such services are affected by Sections VI, VII, IX and XV of the Final Judgment). These other provisions of the Final Judgment, among other things: (a) to fulfill the purposes of the Final Judgment in assuring to users and prospective users of IBM machines an opportunity to purchase those machines on terms and conditions that are not substantially more advantageous to IBM than the terms and conditions for leases of the same machines, require IBM to sell its machines at prices that have a commercially reasonable relationship to the lease charges for the same machines; (b) restrict IBM's ability to reacquire previously sold IBM machines; (c) require IBM to offer to machine owners at reasonable and nondiscriminatory prices repair and maintenance service for as long as IBM provides such service, provided that the machine has not been altered or connected to another machine in such a manner that its maintenance and repair is impractical for IBM; (d) require IBM to offer to machine owners and to persons engaged in the business of providing repair and maintenance services, at reasonable and nondiscriminatory prices, repair and replacement parts for as long as IBM has such parts available for use in its leased machines; (e) restrain IBM from requiring that lessees or purchasers of IBM machines disclose to IBM the uses of such machines, from requiring that purchasers of IBM machines have those machines maintained by IBM and generally from prohibiting experimentation with, alterations in or attachments to IBM machines; (f) require IBM to furnish to owners of IBM machines certain manuals, books of instructions and other documents relating to IBM machines that IBM furnishes to its own repair and maintenance employees; and (g) require IBM to furnish to purchasers and lessees of IBM certain manuals, books of instruction and other documents that pertain to the operation and application of such machines.

IBM and the United States have each filed with the Court memoranda setting forth their respective positions. Copies of the Complaint, the Final Judgment, the Stipulation containing the Government's tentative consent, the memoranda and all over papers filed in connection with this motion are available for inspection at the Office of the Clerk of the United States District Court, Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York 10007 and at Suite 215, Antitrust Division, Department of Justice, 325 7th Street NW., Washington, DC 20530 (Telephone 202–514–2481). Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by the Department of Justice.

Interested persons may submit comments regarding this matter within the sixty (60) day period established by Court order. Such comments must be filed with the Office of the Clerk of the United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007 with copies mailed at the time of filing to: (a) counsel for IBM, Peter T. Barbur, Esq., Cravath, Swaine & Moore, Worldwide Plaza, 825 Eighth Avenue, New York, N.Y. 10019; and (b) counsel for the United States, Kent Brown, Attorney, Computers & Finance Section, Antitrust Division, United States Department of Justice. Judiciary Center Building, Suite 9901, 555 4th Street NW., Washington, DC 20001 (Telephone 202–307–6200).

Rebecca P. Dick,

Deputy Director of Operations.

[FR Doc. 95–23671 Filed 9–22–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Data Collection for the Youth Fair Chance Program Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new

(additional) collection of the Data for the Youth Fair Chance Program Evaluation. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before November 24, 1995. If you anticipate that you will be submitting written comments, but find it difficult to do so within the period of time allowed by this notice, you should request an extension from the contact listed below as soon as possible. Effort will be made to accommodate each request, unless otherwise justified.

FOR FURTHER INFORMATION CONTACT: Mamoru Ishikawa, U.S. Department of Labor, Employment and Training Administration, Office of Policy and Research, Room 5637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–5472 (ext. 160), Internet Address: ishikawam@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Public Law 102–367, the 1992 Amendments to the Job Training Partnership Act, authorized USDOL to award grants to local Youth Fair Chance (YFC) programs to establish community-based programs to provide education, training, and complementary services for youths living in high poverty areas. The two major elements of YFC are: (1) school-to-work programs for youths in middle and high schools and (2) community learning centers for out-of-school youths. The legislation also directed programs to integrate a variety of services into the programs and to involve community residents in planning and guiding programs. In 1994 USDOL awarded grants to 16 sites.

The legislation authorizing the program specified that the Secretary of Labor provide for an ''evaluation of the YFC program to assess the outcomes of youth participating in the program.'' The survey of participants, which is the subject of this Federal Register notice, is intended to meet this legislated objective of the evaluation.

II. Current Actions

The proposed survey of participants will collect information on a sample of YFC participants. It will collect information on the background characteristics of youth participating in YFC; the YFC activities they participated in; their assessment of the services provided by YFC; and their educational, training, employment and other outcomes.

The sample for the survey will be obtained from each YFC site's management information system as will some data on background characteristics and service receipt. However, these data will also be collected on the survey to ensure that consistent data are collected among sites and so that data on outcomes can be collected. The survey will be conducted through a computer assisted telephone interviewing system with automatic call scheduling. This system is designed to minimize the burden on respondents by minimizing time on the telephone and by providing a mechanism for respondents to schedule calls. Participation in the survey is voluntary and confidential.

Public comments should address the accuracy of the burden estimates and ways to minimize burden including the use of other techniques for data collection.

Affected Public: Individuals participating in Youth Fair Chance programs.

Number of Respondents: 4,800.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 1,600 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 18, 1995.

Gerard Fiala,

Administrator, Office of Policy and Research.

[FR Doc. 95–23677 Filed 9–22–95; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

[Application No. D–10009, et al.]

Proposed Exemptions; Charleston Area Medical Center Deferred Profit Sharing Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Charleston Area Medical Center Deferred Profit Sharing Plan (the Plan) Located in Charleston, West Virginia

[Application No. D–10009]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past cash sale by the Plan to the Camcare & Affiliates Malpractice Self-Insurance Trust (the Malpractice Trust) of certain publicly-traded securities, provided the following conditions were satisfied: (a) The sale was a one-time transaction for cash; (b) the Plan paid no commissions or other fees in connection with the transaction; (c) the transaction involved publicly-traded securities, the fair market values of which were determined by an independent bank by reference to the closing price for the securities on the New York Stock Exchange.

Effective Date: If the proposed exemption is granted, the exemption will be effective November 30, 1993.

Summary of Facts and Representations

1. Charleston Area Medical Center, Inc. (CAMC), the Plan's sponsor, is a not-for-profit regional medical center located in Charleston, West Virginia. It is exempt from federal taxes under section 501(c)(3) of the Code, as is its parent corporation, Camcare, Inc. (Camcare). The Plan is a frozen defined contribution plan with approximately 2,469 participants and assets of approximately $31,430,231.

2. In order to protect itself and its affiliates in the event of medical malpractice claims, Camcare in 1978 established the Malpractice Trust.[1] The trustee of the Malpractice Trust is One Valley National Bank, N.A., an independent national bank. The purpose of the Malpractice Trust is to serve as a funding mechanism for malpractice and comprehensive liability self-insurance programs of Camcare and those of its affiliates that choose to participate in the Malpractice Trust. CAMC participates in the Malpractice Trust and from time to time contributes cash to the Malpractice Trust as required by Camcare.

3. The Retirement Committee under the Plan has authority to appoint and discharge registered investment advisors for the Plan and in addition, two members of the Retirement Committee serve as trustees of the Plan with discretionary powers. Although not formally designated, members of the Retirement Committee also were invested with oversight in connection with a number of other self-funded benefit and insurance programs in which CAMC participated, including the Malpractice Trust.

4. Under investment guidelines adopted by CAMC, the Plan's exposure to equity securities was set at a maximum of 50%. Because no new funds were being contributed to the Plan, and due to appreciation in the equity securities, it became clear to the members of the Retirement Committee in late 1993 that the Plan would need to liquidate approximately $5.6 million in equities to get within the 50% guideline. Members of the Retirement Committee were also aware that the Malpractice Trust was under-invested in equity securities, and that an increase in such an investment could enhance the Malpractice Trust's investment performance.

5. At a meeting of the Retirement Committee held on November 5, 1993, it was decided that the equity portion of the Plan which was being managed by Renaissance Investment Management (Renaissance) would be sold to the Malpractice Trust at the assets' fair market value as of November 30, 1993. The Retirement Committee believed that the transaction would: (a) Increase the liquidity of the Plan; (b) provide the Plan with cash to continue to pay benefits; and (c) bring the total percentage of equities in the Plan below the 50% investment guideline limit. In addition, the transaction would save the Plan brokerage commissions which would otherwise be incurred if the Plan were to sell the equities on the open market. The Retirement Committee estimated the savings on commissions to be approximately $13,000. The applicants represent that the decision to transfer the portfolio managed by Renaissance was dictated by the fact that the Renaissance portfolio had the smallest equity exposure of any of the Plan's investment managers. Thus, by selling that entire portfolio to the Malpractice Trust for cash, the Plan could reduce its equity investments to under 50% of its assets, but could keep the allocation as close to the 50% level as possible without exceeding it.

6. Pursuant to its normal operating practices, Bank One, a National Banking Association, which was custodian of the assets invested by Renaissance, determined the fair market value of the assets on November 30, 1993 by reference to the closing prices for such securities on the New York Stock Exchange on that date. Prior to this date, the Retirement Committee had notified Renaissance that effective December 1, 1993, Renaissance would be managing the assets on behalf of the Malpractice Trust and would no longer be managing the assets on behalf of the Plan. The Retirement Committee received the valuation of the assets from Bank One during the second week of December, 1993, and on December 15, 1993, the Malpractice Trust transferred to the Plan $5,700,641 in cash,[2] the fair market value of the assets managed by Renaissance determined by their closing prices on November 30, 1993. The applicants represent that because of market fluctuations during December, 1993, the actual value of the equity securities on December 15 had decreased (based on closing values) by $27,415.62. Thus, the Plan benefited by virtue of the sales price being determined on the basis of the November 30, 1993 values versus the December 15, 1993 values (the date of the actual transfer). Renaissance has represented that the terms and conditions of the transaction were at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

7. The applicants represent that they were not aware at the time of the transaction that it would constitute a prohibited transaction. The applicants further represent that CAMC, members of the Retirement Committee, the trustee and the Malpractice Trust all received no fees or any other compensation in connection with the sale of the securities between the Plan and the Malpractice Trust.

[1] The Malpractice Trust is not an employee benefit plan and is not subject to the provisions of the Act.

[2] The portfolio transferred by the Plan to the Malpractice Trust consisted of cash of $146,900, money market funds of $56,860 and equity securities of $5,496,881. The applicants represent that the $146,900 in cash was transferred to the Malpractice Trust since the Retirement Committee determined that it would be administratively preferable to transfer the entire Renaissance Portfolio to the Malpractice Trust.

8. The transaction at issue was noticed in August, 1994, by CAMC's accountants, who were preparing a financial statement for the Plan on behalf of CAMC. The accountants contacted the Chief Financial Officer for CAMC who consulted with outside legal counsel. Outside legal counsel recommended that the applicants file an exemption request for the subject transaction with the Department.

9. In summary, the applicants represent that the subject transaction satisfied the criteria contained in section 408(a) of the Act because: (a) The sale was a one-time transaction for cash; (b) the Plan paid no commissions or other fees in connection with the transaction; (c) the securities were sold at fair market value as determined by the Plan's independent custodian by reference to closing prices for such securities on the New York Stock Exchange; (d) the applicants discovered the prohibited nature of the transaction through internal scrutiny and promptly applied for an exemption; and (e) the Plan's independent investment manager, Renaissance, has represented that the terms and conditions of the transaction were at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

The Age-Based Profit Sharing Plan and Trust of Carolina OB-GYN Care, P.A. (the Plan) Located in Spartanburg, South Carolina

[Application No. D–10061]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the individual account (the Account) in the Plan of James C. Montgomery, M.D., of a parcel of real property (the Property) to Dr. Montgomery, a party in interest with respect to the Plan, and the assumption by Dr. Montgomery of the Account's current indebtedness with respect to the Property, provided that the following conditions are satisfied: (a) The purchase price is the greater of $120,000 or the fair market value of the Property as of the date of the sale; (b) the fair market value of the Property is determined by a qualified, independent appraiser as of the date of the sale; and (c) the Account pays no commissions or other expenses relating to the sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan established by Carolina OB-GYN Care, P.A. (the Employer) and has 22 participants, including Dr. Montgomery. Dr. Montgomery is an employee of the Employer and one of the three trustees of the Plan. The Plan provides for individually directed accounts. As of December 31, 1994, the Plan had assets of $1,522,158.33. As of that date, Dr. Montgomery's Account in the Plan had assets of $30,053.38.

2. The Property, located at 7660 Blue House Lane, Edisto Island, South Carolina, is a parcel of unimproved real estate. The Property is a water-oriented site in a small private community near Edisto Beach. The applicant represents that the Property is not adjacent to, nor close to, any other real property owned by Dr. Montgomery. The Property was acquired by the Account from C.C. Hice, an unrelated third party, on September 9, 1994 for a purchase price of $116,000.[3] The purchase was financed one-hundred percent by a loan from Spartanburg National Bank of Spartanburg, South Carolina, an unrelated third party. Neither Dr. Montgomery, nor the Employer, nor anyone else, including other parties in interest with respect to the Plan, provided any guaranty or separate security with respect to the loan. The applicant represents that all expenses relating to the Property since its acquisition have been paid by the Account, including taxes, insurance, and fees, a total of $4,256. The applicant represents that the Property has not been used by anyone, including parties in interest with respect to the Plan, at any time since its acquisition and that the Property has produced no income for the Account.

3. The Property was appraised by Judith A. Wallis and Barnard R. Jackson SRA of Appraisal Consultants, Inc., who are qualified independent appraisers certified in the State of South Carolina. Relying on the market data approach, Ms. Wallis and Mr. Jackson estimated that the fair market value of the Property as of September 21, 1994 was $120,000. The appraisal states that the Property is one of a very limited number of sites on Edisto Island having access to deep water, that water-oriented sites have historically experienced increases in property values, and that a review of sales occurring in the subject community over the past several years in fact indicates appreciating property values.

4. Dr. Montgomery proposes to purchase the Property from his own Account for an amount which is the greater of $120,000, or the fair market value of the Property as of the date of the sale, based on an updated independent appraisal. The applicant represents that the Property was originally purchased by the Account solely for investment purposes in light of the Property's significant appreciation potential and that personal motives were not involved. Due to a distinct and abrupt change in his career plans, which consists of plans to slow down and move to the Carolina coast, Dr. Montgomery now desires to purchase the Property himself in order to build a personal residence for use in his retirement. In addition, the applicant represents that the exemption will be in the interests of the Account because it will convert a currently non-income producing, illiquid asset into liquid assets which could then be subject to professional management and will also allow for greater diversification of the assets of the Account.

Under the terms of the proposed purchase agreement, Dr. Montgomery will assume the Account's current indebtedness to Spartanburg National Bank (approximately $116,000 as of June 16, 1995) and make a cash payment to the Account for the balance of the purchase price. The Account will pay no commissions or other expenses relating to the sale.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act for the following reasons:

(a) The price paid by the applicant will be the greater of $120,000, or the fair market value of the Property as of the date of the sale as determined by a qualified, independent appraiser; (b) the Account will pay no commissions or other expenses relating to the sale; (c) the sale will enhance the liquidity and diversification of the assets of the Account; and (d) Dr. Montgomery is the only participant of the Plan that would be affected by the proposed transaction.

Notice to Interested Persons

Because the only Plan assets involved in the proposed transaction are those in

[3] The Department expresses no opinion herein on whether the acquisition and holding of the Property by Dr. Montgomery's Account in the Plan violated any of the provisions of Part 4 of Title I in the Act.

Dr. Montgomery's Account, and he is the only participant affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing on the proposed exemption are due 30 days after the date of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Rea Magnet Wire Company, Inc. Employees' Retirement Savings Plan (the Savings Plan) and Rea Magnet Wire Company, Inc. Union Employees' Retirement Savings Plan (the Union Plan; together, the Plans) Located in Fort Wayne, Indiana

[Application Nos. D–10075 and D–10076]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plans of two guaranteed investment contracts (the GICs) of Confederation Life Insurance Company (CL) to Rea Magnet Wire Company, Inc. (Rea), a party in interest with respect to the Plans, provided the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) the Plans will receive no less than the fair market value of the GICs as of the date of the sale; and (c) the purchase price will be not less than the GICs' accumulated book values at their maturity date (defined as total deposits plus interest accrued but unpaid at the GICs' stated rates of interest through the date of maturity, less withdrawals) plus interest from the date of maturity through the date of the sale at the rate then being earned under the Plans' ''GIC/Stable Value Fund''.

Summary of Facts and Representations

1. Rea is a corporation organized and existing under the laws of the State of Delaware which is in the business of manufacturing wire in various diameters. Rea established the Plans effective May 1, 1986. Both Plans are employee pension plans that are intended to be qualified under section 401(a) of the Code. The Savings Plan currently has approximately 388 participants and beneficiaries and has assets with an approximate aggregate fair market value of $17,386,332. The Union Plan currently has approximately 136 participants and beneficiaries and has assets with an approximate fair market value of $2,453,598.

2. Rea established a Master Trust effective May 1, 1986, with Summit Bank, now called NBD Bank, N.A., as trustee to hold the assets of the Plans. Effective July 1, 1994, Invesco Trust Company (Invesco) succeeded NBD Bank, N.A. as trustee of the Master Trust.

3. Investments of funds contributed to the Plans are made by Invesco as directed by participants in accordance with the Plans' provisions. Since July 1, 1994, the Plans have provided five investment options: (a) A ''GIC/Stable Value Fund'' which invests primarily in pooled GIC Funds, and also purchases individual GICs, seeking to provide a consistent level of income growth; (b) A ''Select Income Fund'' which invests at least 50% of fund assets in corporate bonds, generally rated BBB or better, with long-term capital growth being its primary objective; (c) A ''Total Return Fund'' which invests at least 30% of fund assets in common stock and 30% in fixed and variable income securities, with the remaining 40% allocated between stocks and bonds with income and long-term capital growth being its primary objective; (d) An ''Industrial Income Fund'' which invests primarily in the common stock of U.S. companies, convertible bonds and preferred stocks with its primary objective being long-term capital growth; and (e) A ''Dynamics Fund'' which invests primarily in the stock of rapidly growing companies that are traded on national and over-the-counter exchanges with an emphasis on long-term capital growth.

4. Under the terms of each of the Plans, the participants have withdrawal and transfer rights with respect to their accounts (Withdrawal Events). Circumstances triggering Withdrawal Events include: severance from service, disability, retirement, death, hardship and the transfer of funds to other investment options available under the Plans.

5. On February 2, 1990, CL issued the GICs to the Plans. CL GIC #62050 was acquired for an initial deposit amount of $750,000, and CL GIC #62051 was acquired for an initial deposit of $250,000. As the Investment Manager of the Plans, Summit Bank researched, selected and purchased the CL GICs which at the time of purchase had a Standard & Poors rating of AA.[4] Both GICs had an expiration date of February 1, 1995, and had a guaranteed rate of interest of 9.18%. Both GICs provided for the payment of interest annually on the anniversary of the GIC's effective date, February 2, 1990. All interest payments due under the GICs were received by the Plans through February, 1994.

6. On August 12, 1994, the Ingham County Circuit Court, Lansing, Michigan placed CL in conservatorship and rehabilitation, causing CL to suspend all payments on its contracts, including the GICs. Rea represents that it is not known whether, when, or under what circumstances CL will resume interest payments under the terms of the GICs or whether it will be able to pay the full amounts which were due under the GICs upon their maturity.

7. In order to eliminate the risk associated with continued investment in the GICs and to allow the Plans to distribute or otherwise invest the assets of the Plan in more stable investments that produce a return to the Plans, Rea proposes to purchase the GICs from the Plans. While section 3.04 of each of the GICs provides that the GICs may not be assigned, Rea represents that it is negotiating with CL to obtain a waiver of this assignment restriction. Rea represents that the sale would be in the best interest of the Plans and their participants and beneficiaries. Invesco has also represented that the proposed sale is appropriate for the Plans, in the best interest of the participants and beneficiaries of the Plans, and protective of their rights.

8. Rea represents that the sale would be a one-time transaction for cash and the Plans would not incur any expenses from the sale, nor experience any loss. Rea also states that the Plans would receive as consideration for the sale the greater of either the fair market value of the GICs as determined by Invesco on the date of the sale, or the accumulated book values of the GICs as of February 1, 1995, their maturity dates, plus interest through the date of sale at the rate then being earned under the Plans' ''GIC/Stable Value Fund''.

9. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The sale is a one-

[4] The Department notes that the decisions to acquire and hold the GICs are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs issued by CL.

time transaction for cash; (b) the proposed transaction will enable the Plans and their participants and beneficiaries to avoid any risks associated with the continued holding of the GICs; (c) each Plan will receive the greater of the fair market value of its GIC as determined on the date of sale by Invesco, the Plans' independent trustee, or the accumulated book value of the GIC on the date of maturity, plus interest through the date of sale at the rate then being earned under the Plans' ''GIC/Stable Value Fund''; and (d) Invesco has determined that the proposed transaction is in the best interest of the participants and beneficiaries of the Plans and protective of their rights.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 19th day of September 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–23582 Filed 9–22–95; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–088]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (OMB 83–1), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by October 25, 1995. If you anticipate commenting on a form but fund that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Donald J. Andreotta, NASA Agency Clearance Officer, Code JT, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0057), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie B. Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: Contract Modifications, NASA FAR Supplement Part 18–43.

OMB Number: 2700–0057.

Type of Request: Extension.

Frequency of Report: Annually.

Type of Respondent: Individuals or households.

Number of Respondents: 40.

Total Annual Responses: 40.

Hours Per Request: 1.

Total Annual Burden Hours: 40.

Abstract-Need/Uses: The data from the Application for Volunteer Program determines the eligibility of persons who would like to become Visitor Center Volunteers.

Donald J. Andreotta,

Deputy Director, IRM Division.

[FR Doc. 95–23733 Filed 9–22–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–089]

NASA Advisory Council (NAC), Task Force on the Shuttle-Mir Rendezvous and Docking Missions; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NAC Task Force on the Shuttle-Mir Rendezvous and Docking Missions.

DATES: October 17, 1995, 1:00 p.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 9H40, 300 E Street, S.W. Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Kirkham, Code MOC, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–1692.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Results of the Task Force's joint review meeting with the Russian Advisory Expert Council any products produced at the meeting

—Review of issues related to STS–74 prior to launch, including lessons learned and issues to track

—Review of upcoming missions, including issues related to concerns of the Task Force and issues to track.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: September 19, 1995.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 95–23734 Filed 9–22–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cancellation of Program Panel Meetings

The meetings of the Humanities Panel scheduled for October 23, 25, and 30, published in the Federal Register on September 14, 1995, at pages 47761–2 have been cancelled. The meetings were to review applications submitted the Division of Research Programs for projects beginning after May 1996.

Sharon Bloch,

Assistant General Counsel.

[FR Doc. 95–23635 Filed 9–22–95; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene its next regular meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on October 18 and 19, 1995. The meeting will take place at the address provided below. All sessions of the meeting will be open to the public, except where specifically noted otherwise.

Topics of discussion will include: (1) the role of the medical consultant; (2) Process of ACMUI review of training and experience exemptions; (3) intravascular brachytherapy issues; (4) discussion of NUREGs on human factors evaluations of teletherapy and brachytherapy; (5) discussion of petition for rulemaking for the commercial distribution of byproduct material for in vivo testing; (6) report on subcommittee review of draft licensing modules; (7) status report on National Academy of Science study; (8) update on rulemakings and regulatory guides; (9) discussion of STEP device; and (10) discussion of a manual chapter on patient follow-up.

In addition, a portion of this meeting may be closed, to avoid the disclosure of information that would constitute an unwarranted invasion of the personal privacy of a physician whose training and experience will be reviewed by ACMUI in connection with the physician's application to be an authorized user under a license authorizing medical use of byproduct material.

DATES: The meeting will begin at 8:30 a.m., on October 18 and 19, 1995.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION, CONTACT: Josephine M. Piccone, Ph.D., U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, Telephone (301) 415–7270. For administrative information, contact Torre Taylor, (301) 415–7900.

Conduct of the Meeting

Barry Siegel, M.D., will chair the meeting. Dr. Siegel will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Josephine M. Piccone (address listed above). The transcript of the meeting will be kept open until October 20, 1995, for inclusion of written comments.

2. Persons who wish to make oral statements should inform Dr. Piccone in writing, by October 10, 1995. Statements must pertain to the topics on the agenda for the meeting. Members of the public will be permitted to make oral statements if time permits. Permission to make oral statements will be at the discretion of the Chairman and will be based on the order in which requests are received. In general, oral statements will be limited to approximately 5 minutes. For information regarding oral statements by members of the public, the order of presentation, and time allotments, call Dr. Piccone, (301) 415–7270, between 8 a.m. and 4 p.m., EST, on October 16, 1995.

3. At the meeting, questions from members of the public will be permitted at the discretion of the Chairman.

4. The transcript and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street N.W., Lower Level, Washington, DC 20555 (202) 634–3273, on or about November 3, 1995. Minutes of the meeting will be available on or about November 24, 1995.

5. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, U.S. Code of Federal Regulations, Part 7.

Dated: September 19, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–23678 Filed 9–22–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–293]

Pilgrim Nuclear Power Plant; Notice of Withdrawal of Amendment to Facility Operating License, Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of withdrawal of amendment to facility operating license; Correction.

SUMMARY: This document corrects a general notice published in the Federal Register on September 15, 1995 (60 FR 47969). This notice is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: Ronald B. Eaton, Office of Nuclear Reactor Regulation, telephone (301) 425–3041.

On page 47969, in the first sentence of the first complete paragraph in the center column, the date ''November 22, 1995'' should be changed to read ''November 22, 1994.''

Dated at Rockville, Maryland, this 20th day of September 1995.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 95–23679 Filed 9–22–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–498]

Houston Lighting and Power Co.; City Public Service Board of San Antonio, and Central Power and Light Co., City of Austin, TX; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Houston Lighting

and Power Company, et al., (the licensee) to withdraw its March 1, 1995, application for proposed amendment to Facility Operating License No. NPF–76 for the South Texas Project, Unit 1, located in Matagorda County, Texas.

The proposed amendment would have revised the technical specifications pertaining to the use of an alternate plugging criteria (known in the industry as F*) on steam generator tubes that are defective or degraded within certain areas within the tubesheet.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on March 13, 1995 (60 FR 13481). However, by letter dated September 7, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 1, 1995, and the licensee's letter dated September 7, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 18th day of September 1995.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–23683 Filed 9–22–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–498]

Houston Lighting & Power Co., City Public Service Board of San Antonio and Central Power & Light Co., City of Austin, TX; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Houston Lighting & Power Company, et al. (the licensee), to withdraw its March 1, 1995, application for proposed amendment to Facility Operating License No. NPF–76 for the South Texas Project, Unit No. 1, located in Matagorda County, Texas.

The proposed amendment would have revised the technical specifications pertaining to the steam generator tube plugging criteria and the allowable leakage.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on March 13, 1995 (60 FR 13478). However, by letter dated September 7, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 1, 1995, and the licensee's letter dated September 7, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 15th day of September 1995.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–23680 Filed 9–22–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Washington Public Power Supply System (the licensee) to withdraw its January 6, 1994, application for proposed amendment to Facility Operating License No. NPF–21, for the Washington Nuclear Project No. 2 (WNP–2), located in Benton County, Washington.

The proposed amendment would have revised the technical specifications (TS) to clarify instrumentation testing requirements.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment in the Federal Register on September 28, 1994 (59 FR 49441). However, by letter dated August 25, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 6, 1994, and the licensee's letter dated August 25, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 18th day of September 1995.

For the Nuclear Regulatory Commission.

James W. Clifford,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–23682 Filed 9–22–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Michael E. Bartell, (202) 942–8800

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extensions	
Rule 53	File No. 270–376.
Rule 54	File No. 270–376.
Rule 55	File No. 270–376.
Rule 57(a) and Form U–57	File No. 270–376.
Rule 57(b) and Form U–33–S.	File No. 270–376.
Rule 1(c) and Form U5S	File No. 270–168.
Rule 2 and Form U–3A–2	File No. 270–83.
Rule 71 and Forms U–12(I)–A and U–12(I)–B.	File No. 270–161.
Rules 93 and 94 and Form U–13–60.	File No. 270–79.
Part 257	File No. 270–252.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted requests for approval of extension for the following under the Public Utility Holding Company Act of 1935 (''Act''):

Rule 53 provides a partial safe harbor for financing applications by registered holding companies seeking to finance the acquisition of an exempt wholesale generator. It is estimated that 11 respondents will incur approximately 110 burden hours annually.

Rule 54 prescribes conditions under which the Commission would not consider the effect of a registered

holding company's exempt wholesale generator or foreign utility company investments when deciding whether to approve the issues or sale of securities for purposes other than such investments. It is estimated that 11 respondents will incur approximately 110 burden hours annually.

Rule 55 provides a safe harbor for acquisitions of foreign utilities companies by registered holding companies. It is estimated that 11 respondents will incur approximately 110 burden hours annually.

Rule 57(a) and Form U–57 provides the form on which a company seeking to become a ''foreign utility company'' may notify the Commission of that status. It is estimated that 20 respondents will incur approximately 60 burden hours annually.

Rule 57(b) and Form U–33–S provides for the filing of periodic reports by public utility companies that are associate companies of foreign utility companies. It is estimated that 89 respondents will incur approximately 267 burden hours annually.

Rule 1(c) and Form U5S requires registered holding companies to file annual and other periodic and special reports as the Commission may prescribe to keep current information relevant to compliance with substantive provision of the Act. It is estimated that 218 respondents will incur approximately 218 burden hours annually.

Rule 2 and Form U–3A–2 permits a public utility holding company to claim exemption from the Act by filing an annual statement. It is estimated that 116 respondents will incur approximately 406 burden hours annually.

Rule 71 and Forms U–12(I)–A and U–12(I)–B makes it unlawful for an employee to prevent, advocate, or oppose any matter affecting the company before Congress, the Commission, or the FERC unless such person files a statement with the Commission. It is estimated that 262 respondents will incur approximately 175 burden hours annually.

Rules 93 and 94 and Form U–13–60 ensures uniformity of accounting systems and record retention by service companies and to provide information essential in the administration of Section 13 of the Act. It is estimated that 40 respondents will incur approximately 580 burden hours annually.

Part 257 implements sections of the Act which require registered holding companies and their subsidiary service companies to preserve records for certain periods. It is estimated that 15 respondents will incur approximately one burden hour annually.

General comments regarding the estimated burden hours should be directed to the OMB Clearance Officer at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Clearance Officer, Project Numbers: 3235–0426 (Rule 53), 3235–0427 (Rule 54), 3235–0430 (Rule 55), 3235–0428 (Rule 57(a) and Form U–57), 3235–0429 (Rule 57(b) and Form U–33–S), 3235–0164 (Rule 1(c) and Form U5S), 3235–0161 (Rule 2 and Form U–3A–2), 3235–0173 (Rule 71 and Forms U–12(I)–A and U–12(I)–B), 3235–0153 (Rules 93 and 94 and Form U–13–60), and 3235–0306 (Part 257), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

September 11, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–23716 Filed 9–22–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36241; File No. SR–CBOE–95–36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to the Transfer of Positions on the Floor of the Exchange in Cases of Dissolution and Other Situations

September 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 13, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new rule, CBOE Rule 6.49A, which would establish a special procedure to permit option positions to be offered on the floor of the Exchange in the event that the positions are being transferred as part of a sale or disposition of all or substantially all of the assets or options positions of the transferring party (''Transferor'') where the Transferor would not continue to be involved in managing or owning the transferred positions. The rule change also provides for off-floor transfers of positions based on certain specified exemptions, as well as with the approval of the Exchange's President under extraordinary circumstances. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange has a long-standing policy of prohibiting transfers of option positions between accounts, individuals, or entities where a change in beneficial ownership would result. The Exchange, however, has made exceptions to this general policy under certain limited circumstances. The proposed rule change will formalize the Exchange's policies with respect to transfers of options positions and provide a practical mechanism whereby floor exposure of such positions is facilitated.

The proposed rule change will require options positions, subject to the limits and exemptions described below, to be offered on the trading floor of the Exchange (or of another exchange which trades the options). In addition, in certain situations, such as acquisitions or dissolutions of a Transferor's business, the proposed rule will provide for a mechanism to facilitate the transfers. The purpose of this proposal is to establish a procedure that ensures that members of the Exchange have the opportunity to make bids and offers on

[1] 15 U.S.C. 78s(b)(1) (1988).

positions that are being transferred under these certain situations, and, alternatively, to provide for off-floor transfers of positions under limited circumstances.

The proposed rule will serve to expose the maximum number of positions to the auction market. The Exchange believes that exposing these positions to the auction market, in turn, benefits the public by increasing the liquidity and transparency of the market in the listed option positions. The Exchange further states that market-makers are benefited by being given the opportunity to bid on the positions. In addition, the Exchange represents that the Transferor will not be disadvantaged because the proposed rule provides for exemptions for those special circumstances, such as a market crisis situation, where an off-floor transfer might result in a better price.

Description of the Proposal

The situations in which option positions will be required to be offered on the Exchange's trading floor pursuant to the special procedure established by the proposed rule, or on another exchange which trades the products, will include the transfers of options positions in the case of the sale or disposition of all or substantially all of the assets or options positions of the Transferor where the Transferor would not be included in managing or owning the transferred positions. In situations in which the Transferor continues to maintain some ownership interest or manage the positions transferred, the Transferor generally will not be required to offer the positions on the trading floor but could effect an off-floor transfer of these positions. Situations in which members will be permitted to effect off-floor transfers under the proposed rule include: (i) The dissolution of a joint account in which the remaining member assumes the positions of the joint account, (ii) the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership (*i.e.*, a shareholder or partner, respectively) assumes the positions, (iii) the transfer of positions as part of a member's capital contribution to a new joint account, partnership, or corporation, (iv) the donation of positions to a not-for-profit corporation, (v) the transfer of positions to a minor under the ''Uniform Gifts to Minor'' law, and (vi) a merger or acquisition where continuity of ownership or management results. Off-floor transfers could also be done in other situations with the approval of the Exchange's President.

The procedure established by the proposed rule may also be used by market-makers who, for reasons other than a forced liquidation, such as an extended vacation, wish to liquidate their entire, or nearly their entire, positions in a single set of transactions. As the procedure established by the proposed rule is not meant to replace the normal Exchange auction market, however, repeated and frequent use of the proposed rule by the same members will not be permitted.

The proposed rule also will provide the Transferor with the ability to specify securities in his portfolio, the sale or purchase of which may be transacted on other markets. The price at which the options positions will be bought or sold will be contingent upon the price at which these specified companion securities are bought or sold on the other markets. The Exchange proposes to offer this flexibility to its members because the types of transactions subject to the proposed rule are often ones in which the Transferor is liquidating his entire business. As a result, the Exchange believes that the Transferor should generally be able to receive a more favorable bid or offer for his position if he is able to make the price of the options positions contingent upon the price at which other securities positions in his portfolio trade, because these other positions that he is liquidating may hedge or otherwise complement the options positions.

Pursuant to the proposal, the Transferor will determine which securities to package with the various CBOE-traded positions of his portfolio. The Transferor may create any number of these Transfer Packages;[2] provided, however, that an individual Transfer Package may not contain more than one option class. The Exchange believes that this limitation will ensure that smaller market-makers are able to compete against larger organizations in the bidding for the CBOE-traded positions, thus ensuring a broader participation by the Exchange membership. The proposed rule provides, however, that a member or member organization may make an aggregate bid or offer for any number of Transfer Packages offered by a single Transferor. In the event that the aggregate bid or offer is superior to the combination of the individual best bids or offers for the individual Transfer Packages, the Transferor will be allowed to accept that aggregate bid or offer for a combination of, or all of, the Transfer Packages. The Exchange believes that allowing the Transferor to accept aggregate bids or offers will ensure that the Transferor gets the best possible price for his positions.[3]

Exemptions

The Exchange recognizes that there may be circumstances where an off-floor transfer may be justified, such as emergency transfers of a firm's positions in bulk during a market crisis, such as the October 1987 market break. In an extremely volatile market, the Transferor may be subject to undue risk if he were forced to subject his positions to the auction process established by the proposed rule because there may be some delay in agreeing to a price. In these circumstances, the Exchange's President may, at his own initiative or upon request from the Transferor, exempt the transfer from the proposed rule and permit an off-floor transfer to occur. Another basis for exempting the transfer from the proposed rule will be a showing by the Transferor to the President of the Exchange that compliance with the proposed rule would compromise the market value of the Transferor's business.

There are a few other situations, for legal or other reasons, where the Exchange would not require the transfer to be completed on the Exchange floor, even in situations where the Transferor does not maintain ownership or management of the positions. For example, positions donated to a not-for-profit organization or positions donated to a minor under the ''Uniform Gifts to Minor'' law would not have to be brought to the Exchange floor pursuant to the proposed rule change.

Transfer Procedure

The Transfer Packages offered by the Transferor will generally be offered at the Exchange's Flexible Exchange Options (''FLEX'') post at any time prior to 1:00 p.m., Chicago time,[4] and will be

[2] The Exchange defines a ''Transfer Package'' as the set of options or other applicable financial products being offered by the Transferor as a package, to be bid upon at a net debit or credit for the entire package. A Transferor may offer multiple Transfer Packages on the floor at the same time or on the same day.

[3] Telephone conversation between Tim Thompson, Senior Attorney, Legal Department, CBOE, and Brad Ritter, Office of Market Supervision, Division of Market Regulation, Commission, on July 25, 1995 (''July 25 Conversation'').

[4] Absent unusual circumstances, bids and offers on Transfer Packages are required to be received before 3:00 p.m., Chicago time, so that the CBOE portion of the trade can be completed before the close of trading. To the extent that the Transferor intends to trade any other instrument represented in the Transfer Package on a market that closes before the CBOE, the Transferor should offer the Transfer Package(s) in time to ensure the entire transaction can be completed by the end of the trading day.

subject to many of the procedures established for trading FLEX options. Under the proposed procedures, any Transfer Package consisting solely of positions in one option class that does not include stock or other securities will be offered by the Transferor at the post at which that options class is traded (''Post-Specific Transfer Packages''). Components of Post-Specific Transfer Packages should be individually priced and reported and will be subject to the Exchange's ordinary procedures for trading options. Any Transfer Package consisting of positions in an option class as well as other financial instruments must be offered at the FLEX post. In addition, notice must be given to the Order Book Official of each post (or the Designated Primary Market-maker, as appropriate) where the option class component of the Transfer Package trades. Any firm submitting a Transfer Package will be required to designate a member of the exchange or a person associated with a member to represent the order on the floor of the Exchange. This designee must be available on the Exchange floor to answer questions regarding the Transfer Package during the entire Request Response Time (as defined below).

Following the offer of the Transfer Packages, interested members of the Exchange will be given two hours to submit a bid for one or any combination of the Transfer Packages offered by the Transferor (''Response Request Time'').[5] At the end of the Response Request Time, the Transferor will be allowed to accept the best bid or offer (''BBO'') for any individual Transfer Package, or for any combination of Transfer Packages if the bid or offer for the combination is superior to the aggregate of the individual bids or offers for the individual Transfer Packages.[6] Acceptance of a BBO creates a binding contract under CBOE Rule 6.48, however, a Transferor is not obligated to accept a BBO. If the Transferor opts not to accept the BBO for the Transfer Packages, the Transferor may offer the positions in any Transfer Package the next day. Because the Exchange intends for this proposed procedure to be a transfer procedure and not a price discovery mechanism, the Transferor will need the permission of the President of the Exchange to offer the positions on the Exchange floor for any day subsequent to the second day.

Bids and offers will be made on a net debit or credit basis for entire Transfer Packages. In the event that a particular Transfer Package contains stock positions or other securities positions whose transfer must be transacted on another exchange pursuant to applicable law or regulation, then any accepted bid or offer will give rise to a contract for the CBOE-listed product, the price of which is contingent on the prices at which the other portions of the Transfer Package are transacted. The price at which the CBOE portion is transacted will be the price that is necessary to ensure that the entire Transfer Package is transferred at the agreed upon net debit or credit. All transactions that are required to be completed should be transacted by the end of the trading day on which the bid or offer is made and accepted. The proposed rule also will provide that the member submitting the accepted bid or offer may cancel the trade for the CBOE-listed product in the event that the parties are unable to complete the transaction for the non-CBOE-listed product due to a trading halt or some other operational problem outside the control of the submitting party.

As for priority, equal bids for Transfer Packages will be split equally among the parties submitting the equal bids, to the extent possible, or will be split in such a manner as may be agreed upon by the submitting parties.

Statutory Basis

The Exchange believes this proposal not only provides the Transferor with a procedure to obtain the best price for his positions, but it will also help to maintain liquidity and transparency on the floor for positions which may be transferred under the proposed rule. Consequently, the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR–CBOE–95–36 and should be submitted by October 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

[5] The two hour time could be shortened or lengthened with the approval of the President. Any Transfer Package offered after 1:00 p.m., Chicago time, will need the prior approval of the President. The proposed rule will prevent the President from permitting offers to be brought after 2:30 p.m., Chicago time.

[6] For example, assume a situation where a Transferor offers four Transfer Packages. Further, assume that following the Request Response Time, the Transferor receives bids for three of the Transfer Packages and one aggregate bid for all four Transfer Packages. As long as the aggregate bid is greater than the sum of the best individual bids for the three Transfer Packages, the Transferor may accept the aggregate bid and transfer all four Transfer Packages. See July 25 Conversation, *supra* note 3.

[7] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–23717 Filed 9–22–95; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–11976]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Unapix Entertainment, Inc., Common Stock, $.01 Par Value; Class A Redeemable Common Stock Purchase Warrants, Entitling the Holder To Purchase One Share of Common Stock, for $3.30 and Expiring on June 22, 1998; Class B Redeemable Common Stock Purchase Warrants, Entitling the Holder To Purchase One Share of Common Stock for $4.50 and Expiring on June 22, 1998; and Units, Each Consisting of One Share of Common Stock, One Class A Warrant, and One Class B Warrant)

September 19, 1995.

Unapix Entertainment, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, the Securities have been registered and listed on the American Stock Exchange, Inc. (''Amex''). Trading on the Amex commenced on August 15, 1995. The Company is submitting this application in order to avoid the dual expense of maintaining its BSE listing in addition to that of its Amex listing.

Any interested person may, on or before October 11, 1995 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–23718 Filed 9–22–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–95–33]

Petitions For Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain positions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 25, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 20, 1995.

Michael Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28285.

Petitioner: Petroleum Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 133.45(e)(1).

Description of Relief Sought: To permit Petroleum Helicopters, Inc., to operate a McDonnell Douglas MD 900 helicopter, which is not type certificated under transport Category A, in Class D rotorcraft-load combination operations.

Docket No.: 28302.

Petitioner: Mr. William R. Conaway.

Sections of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought: To permit Mr. Conaway to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Docket No.: 28303.

Petitioner: United Parcel Service.

Sections of the FAR Affected: 14 CFR 121.434(g).

Description of Relief Sought: To permit United Parcel Service B–727 pilots in command and seconds in command to substitute one additional takeoff and landing for 1 hour of flight time, up to 50 hours, to help meet the 100-hour requirement of line operating flight time for consolidation of knowledge and skills within 120 days after satisfactory completion of a type rating practical test or an initial proficiency check.

Docket No.: 28304.

Petitioner: Helicopter Association International.

Sections of the FAR Affected: 14 CFR 91.169(c)(1)(i).

Description of Relief Sought/ Disposition: To permit qualified members of Helicopter Association International, operating under part 91, to use lower alternate airport weather minimums for the purpose of flight planning when conducting flights under instrument flight rules.

Docket No.: 28324.

Petitioner: Cessna Aircraft Company.

Sections of the FAR Affected: 14 CFR 25.811(d)(1).

Description of Relief Sought: To permit the Cessna Aircraft Company (for its Model 750 Citation X) relief from the

requirement to have a passenger emergency exit locator sign at each passenger emergency exit.

Dispositions of Petitions

Docket No.: 581.
Petitioner: Department of the Air Force.
Sections of the FAR Affected: 14 CFR 91.109(c).
Description of Relief Sought/ Disposition: To extend Exemption No. 130, as amended, which permits the Air Force to operate its U–2 and B–57F aircraft at or above flight level 600 without maintaining the appropriate cruising altitudes as prescribed by the FAR governing operations for flights conducted under visual flight rules. *Grant, August 28, 1995, Exemption No. 130C.*

Docket No.: 581.
Petitioner: Department of the Air Force.
Sections of the FAR Affected: 14 CFR 91.109.
Description of Relief Sought: To extend Exemption No. 131, as amended, which permits the Air Force to conduct hurricane reconnaissance flights without maintaining the appropriate cruising altitudes as prescribed by the FAR governing operations for flights conducted under visual flight rules. *Grant, August 28, 1995, Exemption No. 131G.*

Docket No.: 581.
Petitioner: Department of the Air Force.
Sections of the FAR Affected: 14 CFR 91.109.
Description of Relief Sought/ Disposition: To extend Exemption No. 134, as amended, which permits the Air Force to conduct nontraining photographic reconnaissance missions that require flying a series of tracks at a constant altitude as prescribed by the FAR governing operations for flights conducted under visual flight rules. *Grant, August 28, 1995, Exemption No. 134H.*

Docket No.: 24605.
Petitioner: World Jet Corporation.
Sections of the FAR Affected: 14 CFR 91.511(a) and 135.165(b).
Description of Relief Sought/ Disposition: To extend Exemption No. 4961, as amended, which permits the World Jet Corporation to operate its turbojet aircraft in extended overwater operations using one long-range navigational system and one high-frequency communication system. *Grant, August 30, 1995, Exemption No. 4961E.*

Docket No.: 25177.
Petitioner: U.S. Coast Guard.
Sections of the FAR Affected: 14 CFR 91.117 (b) and (c), 91.119(c), 91.159(a), and 91.209(a).
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5231, as amended, which allows the U.S. Coast Guard to conduct air operations in support of drug law enforcement and drug traffic interdiction. The amendment adds § 91.119(c) to the exemption. Continued exemption of § 91.127(c) has been denied. *Partial Grant, August 23, 1995, Exemption No. 5231B.*

Docket No.: 27298.
Petitioner: Petroleum Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To extend Exemption No. 5770, which allows appropriately trained pilots employed by Petroleum Helicopters, Inc., to remove and to install aircraft seats in its aircraft that are used in operations conducted under part 135. *Grant, August 24, 1995, Exemption No. 5770A.*

Docket No.: 27441.
Petitioner: Department of the Army.
Sections of the FAR Affected: 14 CFR 45.29(b)(3).
Description of Relief Sought/ Disposition: To extend Exemption No. 5761, which permits the Army to use 9-inch aircraft nationality and registration markings in lieu of 12-inch markings on its Bell Model 206B3 rotorcraft. *Grant, August 2, 1995, Exemption No. 5761A.*

Docket No.: 27486.
Petitioner: Carroll Aviation, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To extend Exemption No. 5810, which permits Carroll Aviation, Inc., (CAI) to operate the following aircraft under part 135: (1) its Piper Pa–30 airplane, Serial No. 30–1085, Registration No. N7983Y, equipped with any TSO–C74b or TSO–C74c transponder; and (2) after notifying CAI's Principal Operations Inspector, any additional aircraft that require the installation of an air traffic control transponder. *Grant, August 30, 1995, Exemption No. 5810A.*

Docket No.: 27651.
Petitioner: Erickson Air-Crane Co.
Sections of the FAR Affected: 14 CFR 45.27(a).
Description of Relief Sought/ Disposition: To permit the Erickson Air-Crane Co., to display its aircraft registration numbers diagonally, rather than horizontally, on the tail pylons of its aircraft. *Denial, August 21, 1995, Exemption No. 6147.*

Docket No.: 28188.
Petitioner: Flying Boat, Inc., d.b.a. Chalk's International Airline.
Sections of the FAR Affected: 14 CFR 135.180(a).
Description of Relief Sought/ Disposition: To permit Chalk's International Airline to operate six Grumman Mallard G–73T (G–73) flying boats that are not equipped with an approved Traffic Alert and Collision Avoidance system (TCAS I) until June 30, 1996. *Denial, August 30, 1995, Exemption No. 6149.*

[FR Doc. 95–23725 Filed 9–22–95; 8:45 am]
BILLING CODE 4910–13–M

[Summary Notice No. PE–95–34]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 25, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW.,

Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaing (ARM–1) Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 20, 1995.

Michael Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 27833.
Petitioner: Air Tractor, Inc.
Sections of the FAR Affected: 14 CFR 91.313(d).
Description of Relief Sought: To reconsider Exemption No. 6095, which denied the petitioner exemption that would have allowed a passenger to be carried in Air Tractor models AT–503A and AT–802 restricted category aircraft without that passenger performing one of the functions described in § 91.313(d).

Dispositions of Petitions

Docket No.: 18881.
Petitioner: Experimental Aircraft Association.
Sections of the FAR Affected: 14 CFR 91.151(a)(1).
Description of Relief Sought/ Disposition: To extend Exemption No. 5745, which permits the International Aerobic Club (IAC), a division of the Experimental Aircraft Association, and IAC members participating in IAC-sponsored competitions to begin a daytime flight in an airplane under visual flight rules conditions when there is enough fuel to be able to fly for at least 20 minutes after the first point of intended landing. This petitioner had requested a permanent exemption; however, while the exemption is granted, it is not permanent. *Grant, August 14, 1995, Exemption No. 5745A.*

Docket No.: 26552.
Petitioner: United Parcel Service Co.
Sections of the FAR Affected: 14 CFR appendix H, part 121.
Description of Relief Sought/ Disposition: To extend Exemption No. 5366, as amended, which permits UPS, and any other operator contracting to use UPS simulators, to conduct training and checking in UPS simulators that do not meet all of the visual requirement necessary to be qualified as Level D (formerly Phase III) simulators. *Grant, August 16, 1995, Exemption No. 5366B.*

Docket No.: 27295.
Petitioner: Monument Valley Air Service.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To extend Exemption No. 5727, which permits appropriately trained pilots employed by Monument Valley Air Service to remove and reinstall aircraft cabin seats in its aircraft that are type certificated for nine or fewer passenger seats and used in operations conducted under part 135. *Grant, August 10, 1995, Exemption No. 5727A.*

Docket No.: 27837.
Petitioner: Los Angeles Police Department.
Sections of the FAR Affected: 14 CFR 145.53.
Description of Relief Sought/ Disposition: To permit the City of Los Angles Department of General Services Helicopter Maintenance Unit, an FAA-certificated repair station to perform maintenance on the department's military surplus Bell Helicopter Model 204B, an aircraft for which the repair station is not rated. *Denial, August 9, 1995, Exemption No. 6143.*

Docket No.: 27989.
Petitioner: Bidzy Ta Hot Aana d.b.a. Tanana Air Service.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To allow appropriately trained pilots employed by Tanana Air Service to remove and reinstall passenger seats in its aircraft type certificated for nine or fewer passenger seats that are used in operations conducted under part 135. *Grant, August 10, 1995, Exemption No. 6145.*

Docket No.: 28038.
Petitioner: Doug Geeting Aviation.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To allow appropriately trained pilots employed by Doug Geeting Aviation to remove and reinstall aircraft cabin seats in its aircraft that are type certificated for nine or fewer passenger seats and used in operations conducted under part 135. The petitioner had requested permanent exemption; however, while the exemption is granted, it is not permanent. *Grant, August 10, 1995, Exemption No. 6144.*

Docket No.: 28084.
Petitioner: Kokomo Aviation, Inc.
Sections of the FAR Affected: 14 CFR 135.165(b)(6) and (7).
Description of Relief Sought/ Disposition: To permit Kokomo Aviation, Inc., to operate turbojet aircraft equipped with one high-frequency (HF) communication system in extended overwater operations. *Grant, August 15, 1995, Exemption No. 6146.*

[FR Doc. 95–23727 Filed 9–22–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

[FHWA Docket No. 92–24]

Participation in the Congestion Pricing Pilot Program

AGENCY: Federal Highway Administration (FHWA), Department of Transportation.

ACTION: Notice; additional solicitation for participation.

SUMMARY: This notice further extends FHWA's open invitation to State, local governments, or other public authorities, including toll authorities, to apply for participation in the Congestion Pricing Pilot Program (Pilot Program) established by Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). This notice amends the Pilot Program to support initiatives by toll authorities which involve tolls that vary by time of day and level of congestion.

DATES: The solicitation for participation in the Pilot Program will be held open until further notice.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Berg, Highway Revenue and Pricing Team, HPP–13, (202) 366–0570; or Mr. Wilbert Baccus, Office of the Chief Counsel, HCC–32, (202) 366–0780; FHWA, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 1012(b) of the ISTEA (Pub. L. 102–240, 105 Stat. 1914) authorizes the Secretary of Transportation (the Secretary) to create a Pilot Program by entering into cooperative agreements with up to five State or local governments or other public authorities, to establish, maintain, and monitor congestion pricing pilot projects. This section also provides that three of these agreements may involve the use of tolls on the Interstate System notwithstanding 23 U.S.C. 129, as amended, and 301. A maximum of $25 million is authorized for each of the fiscal years 1992 through 1997 to carry out this program.

In advance of completing its plan for implementing this program, the FHWA published a Federal Register notice on May 29, 1992 (57 FR 22857), which presented general information about the Pilot Program and solicited public

comment on a number of implementation issues [Docket No. 92–94]. The comment period closed on June 29, 1992. The FHWA published the initial solicitation for the Pilot Program in the Federal Register on November 24, 1992 (57 FR 55293). The solicitation period closed on January 25, 1993. The results of the first solicitation were summarized in the Federal Register on June 16, 1993 (58 FR 33293). The June 16 notice also extended the solicitation period until October 14, 1993. A Federal Register notice dated May 25, 1994, extended the solicitation deadline for program participation until further notice and broadened the program to include pre-project activities and pricing of high-occupancy vehicle lanes.

Since that notice was issued, the FHWA has funded a variety of projects involving pre-project studies and implementation projects. Pre-project studies are underway in six cities in California, Minnesota, Oregon, Texas, and Colorado. An implementation project is in the preliminary stages in San Diego, California. In addition, Pilot Program funds are being used to support a monitoring and evaluation study of a privately funded highway project in California that will be the first U.S. toll road using congestion pricing techniques to manage demand. Negotiations are currently underway for additional congestion pricing projects in other States.

Additional Solicitation for Participation

This notice expands the offer of Federal support currently available to toll authorities and others for initiatives that would make use of variable tolls as part of a demand management strategy. Through this notice, the Pilot Program is being amended to make Federal funds available for use as a revenue reserve fund to replace revenue losses associated with adoption of a congestion pricing toll strategy.

The preferred method of charging tolls on existing toll facilities is to set a fixed toll per passenger vehicle and a fixed toll per axle for commercial vehicles. Fixed tolls may be favored because they clearly satisfy bond trust agreements and rate covenants regarding revenue to service debt. Another reason for this method of tolling may be an equity concern that all toll customers in the same vehicle class be charged the same fixed fee.

However, fixed tolls do not necessarily account for the importance of the trip to the user or the additional cost responsibility of peak-period users. They also preclude the possibility of using tolls that vary by time of day or level of congestion for demand management purposes.

Although much remains to be learned about the response of travelers to congestion pricing practices, the use of variable tolls has the potential of both improving service on congested toll facilities and reducing the need for capacity expansion. To help overcome barriers to the testing and use of variable tolls and to encourage congestion pricing initiatives by toll authorities, the FHWA is modifying the existing offer of support from the Pilot Program. The Pilot Program can already provide support for efforts designed to lay the groundwork for congestion pricing applications, such as the development of public-involvement programs, activities designed to overcome institutional barriers to implementing congestion pricing, and funding for automated vehicle identification or tolling equipment and operational costs for pricing applications.

The new feature being offered through this notice is the availability of Pilot Program funds in the amount of up to $10 million to a participating toll authority, either directly or as an ISTEA Section 1012 loan of Federal funds from the State to the toll authority, to be used to establish a revenue reserve fund that would be available to replace potential revenue loss that might be associated with adoption of a congestion pricing toll strategy. The purpose of this new feature is to help provide assurance to the toll authority and others that the revenue stream associated with a toll facility would not be jeopardized by the adoption of a congestion pricing toll strategy. For example, a toll authority might propose a revenue-neutral pricing strategy with peak-period surcharges and/or off-peak discounts that would be designed to influence demand patterns to provide improved customer service or reduce the need for future capacity expansion. A revenue-neutral pricing strategy would also respond to the negative perception of congestion pricing as simply a new tax designed to raise additional revenue. An example from a toll road in France provides an interesting illustration where certain peak period tolls are set 25 to 50 percent higher than the base rates and off-peak rates are reduced by 25 to 50 percent. The new toll structure has significantly reduced congestion during the most congested periods and has been viewed as a successful strategy by users of the tollway. The toll authority designed the pricing strategy to be revenue neutral, and while modest revenue losses were noted initially, it appears that overall revenue impacts were low. Alternatively, a toll authority might propose to increase tolls to raise additional revenue to support capacity expansion or otherwise improve service, but through the adoption of a combination of peak-period surcharges and off-peak discounts the toll authority may be able to influence demand patterns to provide improved customer service or may be able to reduce the level of capacity expansion needed.

In either case, because of the innovative pricing strategy being proposed, toll authorities need to be able to assure bondholders and rating agencies that revenues would not decrease or be lost as a result of the pilot test. The FHWA recognizes that forecasting traffic and revenue changes that might result from adoption of a peak-period pricing initiative is inherently uncertain, even if the objective of the initiative is to maintain revenue neutrality. For this reason, FHWA is offering toll authorities the possibility of using Pilot Program funds to establish a revenue reserve fund that could be drawn upon if revenues do fall below projected levels.

The exact details of the funding arrangement of the Pilot Program would be worked out to suit the unique circumstances of individual proposers, but, in general, the proposer must provide to FHWA an estimate of the expected revenue stream expected to result from a variable toll strategy (based on an estimate by an independent traffic and revenue forecasting firm), assign a downside risk of revenue loss that might occur (e.g., if traffic projections prove to be overstated), and propose to establish a revenue reserve fund that would cover that potential amount of revenue loss. The maximum amount of Federal funds to be available to any proposer for a revenue reserve fund is $10 million. The proposer would be required to provide the non-Federal share of not less than 20 percent as the initial deposit in the fund. At the time the agreement is executed between FHWA and the proposer, the Federal share of project funds will be obligated. Federal funds will be deposited in the revenue reserve fund immediately after the non-Federal share is deposited.

Any revenue reserve funds that are unused after completion of the congestion pricing initiative may be used for other congestion relief projects, including capacity additions to the facility included in the pilot project or related facilities, transit improvements in the area of the pricing project, other congestion pricing initiatives, or other related uses. Proposals should identify specific plans for use of any excess funds, or describe how such use will be determined at a later date. The

effectiveness of the proposed uses of these funds will be a consideration in the evaluation of proposals.

The selection criteria contained in the FHWA's November 24, 1992, Federal Register notice will continue to be used as general selection criteria for implementation. However, clear priority will be given to projects that can be implemented during fiscal year (FY) 1996 so that the FHWA can evaluate data prior to expiration of ISTEA. Therefore, applications for FY 1996 revenue reserve funding for toll roads should be submitted by October 31, 1995, or as soon thereafter as possible. Proposals should include a brief discussion of the tolling strategy, expected timing of implementation, proposed fund management plan, and approvals needed. Any remaining program funds would continue to be available for pre-project and implementation efforts that would come later than FY 1996. To obtain further information or discuss potential revenue reserve fund projects contact Mr. John T. Berg at the address provided under **FOR FURTHER INFORMATION CONTACT.**

Authority: 23 U.S.C. 315; 49 CFR 1.48; Sec. 1012(b), Pub. L. 102–240, 105 Stat. 1914, 1938.

Issued on: September 19, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–23688 Filed 9–22–95; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Domestic Finance; Notice of Open Meeting of the Advisory Committee Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement Implementation Act (Pub. L. No. 103–182) (the ''Implementation Act''), established an advisory committee (the ''Advisory Committee'') for the community adjustment and investment program (the ''Program''). The charter of the Advisory Committee has been filed in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. No. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of nine members of the public, appointed by the President, who collectively represent: (1) community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests.

The objectives of the Advisory Committee are to: (1) provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review.

Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The interagency committee is chaired by the Secretary of the Treasury.

The meeting of the Advisory Committee, which will be open to the public, will be held in Washington, DC, at the American Society of Association Executives (ASAE) Board Room, 1575 I Street, NW, Washington DC 20005 from 2:00 p.m. to 6:30 p.m. EST, on Wednesday, October 11, 1995. The room will accommodate approximately 100 persons. Seats are available on a first-come, first-serve basis. Due to limited seating, all prospective attendees are encouraged to notify the persons listed below. If you would like to have the Advisory Committee consider a written statement, please submit the material addressed to the Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 1124, Washington, DC 20220 no later than Monday, October 2, 1995. If you have any questions, please call Dan Decena at (202) 622–0637 or Peter Necheles at (202) 622–2139. Please note that these telephone numbers are not toll-free.

Mozelle W. Thompson,

Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 95–23656 Filed 9–22–95; 8:45 am]

BILLING CODE 4810–25–P

UNITED STATES INSTITUTE OF PEACE

Announcement of 1996 Solicited Grant Topics

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The agency is Soliciting Applications for Projects on the following topics:

Solicitation A: New Approaches to Conflict Management, Peacemaking, and Peacekeeping

Solicitation B: Economic and/or Environmental Factors and International Conflict

Solicitation C: Professional Conflict Resolution Training Programs and Materials

Solicitation D: Cross-Cultural Negotiation Research and Training

DATES: Application Material Available in September, 1995. Receipt Date for Return of Applications: January 2, 1996. Notification of Awards: April, 1996.

ADDRESSES: For Applciation Package: United States Institute of Peace, Solicited Grant Program, 1550 M Street, NW., Suite 700, Washington, DC 20005–1708, (202) 429–6063 (fax), (202) 457–1719 (TTY), usip—requests@usip.org(email).

FOR FURTHER INFORMATION CONTACT: The Grant Program, Phone (202)–429–3842.

Dated: September 19, 1995.

Bernice J. Carney,

Director Office of Administration.

[FR Doc. 95–23641 Filed 9–22–95; 8:45 am]

BILLING CODE 3155–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 185
Monday, September 25, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: September 27, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro, 637th Meeting—September 27, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Docket # P–2689, 007, Scott Paper Company, N.E.W. Hydro, Inc.
CAH–2.
Docket # P–2744, 020, Menominee Company, N.E.W. Hydro, Inc.
CAH–3.
Docket # P–10395, 004, City of Augusta, Kentucky
Other #s P–10646, 002, City of Vanceburg, Kentucky
P–11053, 002, City of Hamilton, Ohio
CAH–4.
Docket # P–2570, 024, Ohio Power Company
CAH–5.
Docket # P–3206, 026, City of New Martinsville, West Virginia
Other #s P–3206, 028, City of New Martinsville, West Virginia
CAH–6.
Docket # P–3913, 002, Puget Sound Power & Light Company
Other #s P–10269, 003, Washington Hydro Development Corporation
CAH–7.
Docket # P–5797, 006, B & C Energy, Inc.
CAH–8.
Docket # UL89–16, 001, Consolidated Hydro, Inc.
CAH–9.
Docket # P–9085, 013, Richard Balagur
Other #s P–9085, 014, Richard Balagur
CAH–10.
Omitted

Consent Agenda—Electric

CAE–1.
Docket # ER95–791, 000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company
CAE–2.
Docket # ER95–1443, 000, Montaup Electric Company
CAE–3.
Docket # ER95–1466, 000, New England Power Pool
CAE–4.
Docket # ER95–1468, 000, Southern Company Services, Inc.
Other #s ER95–969, 000, Southern Company Services, Inc.
ER95–971, 000, Southern Company Services, Inc.
ER95–976, 000, Southern Energy Marketing, Inc.
TX95–5, 000, Southeastern Power V. Southern Co.
CAE–5.
Docket# ER95–1491, 000, Energy Alliance Partnership
CAE–6.
Docket# ER95–1530, 000, Southern California Edison Company
CAE–7.
Docket# ER95–1542, 000, Midamerican Energy Company
Other#s ER95–188, 000, Midamerican Energy Company
CAE–8.
Docket# ER95–1543, 000, Illinois Power Company
Other#s ER95–764, 000, Illinois Power Company
CAE–9.
Docket# ER95–1510, 000, Wisconsin Power and Light COMPANY
CAE–10.
Docket# EC95–17, 000, Tampa Electric Company
CAE–11.
Docket# ER95–1515, 000, Western Resources, Inc.
CAE–12.
Docket# ER95–1444, 000, IES Utilities, Inc.
Other#s ER95–1465, 000, Industrial Energy Applications, Inc
CAE–13.
Docket# ER95–1453, 000, Commonwealth Electric Company
CAE–14.
Omitted
CAE–15.
Omitted
CAE–16.
Docket# ER94–1561, 004 Citizens Utilities Company
CAE–17.
Docket# EC95–15, 000, Southern Indiana Gas and Electric Company
CAE–18.
Omitted
CAE–19.
Docket# EC94–7, 000, El Paso Electric Company and Central and South West Services, Inc.
Other#s ER94–898, 000, El Paso Electric Company and Central and South West Services, Inc.
TX94–2, 000, El Paso Electric Company and Central and South West Services, Inc. et al. v. Southwestern Public Service Co.
CAE–20.
Docket# ER95–1138, 001, Southwestern Public Service Company
CAE–21.
Docket# EL87–51, 006, Cajun Electric Power Cooperative, Inc. v. Gulf States Utilities Company
Other#s ER88–477, 006, Gulf States Utilities Company
CAE–22.
Docket# ER92–764, 003, New England Power Company
Other#s ER92–766, 003, Northwest Utilities Service Company
CAE–23.
Docket# EL95–24, 001, Golden Spread Electric Cooperative, Inc. v. Southwestern Public Service Company
CAE–24.
Docket# ER93–540, 004, American Electric Power Service Corporation
Other#s EC94–7, 003, El Paso Electric Company and Central and South West Services, Inc.
ER92–331, 004, Consumers Power Company
ER92–332, 004, Consumers Power Company
ER93–465, 020, Florida Power & Light Company et al.
ER94–475, 003, Wisconsin Power & Light Company
ER94–898, 003, El Paso Electric Company and Central and South West Services, Inc.
ER94–1045, 005, Kansas City Power & Light Company ,
ER94–1113, 003, Northern States Power Company (Minnesota) and (Wisconsin)
ER94–1348, 003, Southern Company Services
ER94–1380, 006, Louisville Gas & Electric Company
ER94–1518, 003, Commonwealth Electric Company
ER94–1561, 003, Citizens Utilities Company
ER94–1637, 003, Cinergy Services, Inc.
ER94–1639, 003, Wisconsin Public Service Corporation
ER94–1698, 004, Kentucky Utilities Company

ER95–112, 004, Entergy Services, Inc.
ER95–203, 005, Utilicorp United, Inc.
ER95–264, 003, Wisconsin Electric Power Company
ER95–371, 004, Commonwealth Edison Company
CAE–25.
Omitted
CAE–26.
Omitted
CAE–27.
Docket# EG95–71, 000, Empresa Valle Hermoso, S.A.
CAE–28.
Docket# EG95–74, 000, CSW Northwest Gp, Inc.
CAE–29.
Docket# EG95–75, 000, KVA Resources, Inc.
CAE–30.
Docket# EG95–76, 000, CSW Northwest LP. Inc.
CAE–31.
Docket# EG95–72, 000, EI Services Columbia
CAE–32.
Docket# EG95–73, 000, Guaracachi America, Inc.
CAE–33.
Docket# EG95–77, 000, Cortes Operating Company, S.A. DE C.V.
CAE–34.
Docket# EG95–78, 000, Electricidad de Cortes, S. DE R.L. DE C.V.
CAE–35.
Docket# AC95–163, 000, Ohio Power Company
CAE–36.
Docket# EL93–42, 000, Towns and Cities of Clayton, Lewes and Middleton, Delaware et al., v. Delmarva Power & Light Company
CAE–37.
Docket# EL95–34, 000, James River Paper Company, Inc.
CAE–38.
Omitted
CAE–39.
Omitted
CAE–40.
Omitted
CAE–41.
Omitted

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP95–429, 000, ANR Pipeline Company
CAG–2.
Docket# RP95–430, 000, Southern Natural Gas Company
CAG–3.
Docket# RP95–431, 000, Southern Natural Gas Company
CAG–4.
Docket# RP95–432, 000, Columbia Gas Transmission Corporation
CAG–5.
Docket# TM96–1–8, 000, South Georgia Natural Gas Company
CAG–6.
Docket# RP95–30, 004, Koch Gateway Pipeline Company
CAG–7.
Docket# RP95–295,002, Koch Gateway Pipeline Company
Other#s RP95–421, 000, Koch Gateway Pipeline Company
CAG–8.
Docket# RP95–425, 000, Transwestern Pipeline Company
CAG–9.
Docket# RP95–426, 000, Mississippi River Transmission Corporation
Other#s TM96–2–25, 000, Mississippi River Transmission Corporation
CAG–10.
Docket# RP95–427, 000, El Paso Natural Gas Company
CAG–11.
Docket# RP95–434, 000, Colorado Interstate Gas Company
CAG–12.
Docket# RP95–435, 000, Northern Natural Gas Company
CAG–13.
Docket# TM96–1–32, 000, Colorado Interstate Gas Company
CAG–14.
Docket# PR95–10, 000, Enogex Inc.
CAG–15.
Docket# RP93–187, 011, Equitrans, Inc.
Other#s CP88–546, 009, Equitrans, Inc.
RP93–62 et al., 014, Equitrans, Inc.
CAG–16.
Docket# RP95–197, 000, Transcontinental Gas Pipe Line Corporation
CAG–17.
Docket# RP95–423, 000, Florida Gas Transmission Company
CAG–18.
Omitted
CAG–19.
Docket# RP94–145, 003, Pacific Gas Transmission Company
CAG–20.
Docket# RP95–28, 000, Williams Natural Gas Company
CAG–21.
Docket# RP95–120, 000, Noram Gas Transmission Company
CAG–22.
Docket# RP95–185, 004, Northern Natural Gas Company
CAG–23. Omitted
CAG–24.
Docket# RP89–224, 012, Southern Natural Gas Company
Other#s CP71–273, 012, Southern Natural Gas Company
CP95–289, 000, Southern Natural Gas Company
CP95–292, 000, Southern Natural Gas Company
RP89–203, 008, Southern Natural Gas Company
RP90–139, 013, Southern Natural Gas Company
RP91–69, 004, Southern Natural Gas Company
RP92–134, 013, Southern Natural Gas Company
RP93–15, 009, Southern Natural Gas Company
RP94–67, 019, Southern Natural Gas Company et al.
RP94–264, 007, Southern Natural Gas Company
RP94–269, 001, Southern Natural Gas Company
RP94–307, 002, Southern Natural Gas Company
RP94–380, 005, Southern Natural Gas Company
RP94–429, 003, Southern Natural Gas Company
RP95–27, 001, Southern Natural Gas Company
RP95–29, 002, Southern Natural Gas Company
RP95–29, 003, Southern Natural Gas Company
RP95–59, 002, Southern Natural Gas Company
RP95–67, 001 Southern Natural Gas Company
RP95–177, 001, Southern Natural Gas Company
RP95–209, 000, Southern Natural Gas Company
RS92–10, 015, Southern Natural Gas Company
CAG–25.
Docket# RP94–365 005 Williams Natural Gas Company
CAG–26.
Docket# RP95–166 001 Pan-Alberta Gas (U.S.), Inc. v. Pacific Gas and Electric Company and Pacific Gas Transmission Company
CAG–27.
Docket# RP95–196, 003, Columbia Gas Transmission Corporation
Other#s RP94–157, 006, Columbia Gas Transmission Corporation
RP95–392, 001, UGI Utilities, Inc. v. Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation
CAG–28.
Docket# RP90–137 023 Williston Basin Interstate Pipeline Company
CAG–29. Docket# RP95–271 002 Transwestern Pipeline Company
Other#s CP94–211, 003, Transwestern Pipeline Company
CP94–254, 002, Transwestern Pipeline Company
CP94–676, 001, Transwestern Pipeline Company
CP94–751, 003, Transwestern Pipeline Company
CP95–70, 003, Transwestern Pipeline Company
CP95–112, 002, Transwestern Gathering Company
CP95–153, 001, Transwestern Pipeline Company
CP95–378, 001, Transwestern Pipeline Company
RP93–34, 009, Transwestern Pipeline Company
RP94–227, 002, Transwestern Pipeline Company
CAG–30. Docket# RP94–43, 013, ANR Pipeline Company
Other#s RP94–43, 014, ANR Pipeline Company
RP95–58, 002, ANR Pipeline Company
CAG–31.
Docket# RP95–91, 002, Columbia Gas Transmission Corporation
Other#s RP95–91, 001, Columbia Gas Transmission Corporation
CAG–32.
Docket# RP95–6, 005, Northwest Pipeline Corporation

Other#s RP95–6, 004, Northwest Pipeline Corporation
CAG–33.
Docket# RP95–318, 001, Williston Basin Interstate Pipeline Company
CAG–34.
Docket# RM95–12, 000, Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines
CAG–35.
Docket# IS95–36, 000, Texaco Pipeline, Inc.
CAG–36.
Docket# PR95–11, 000, Egan HUB Partners, L.P.
CAG–37.
Docket# MG95–7, 000, Cove Point LNG Limited Partnership
CAG–38.
Docket# MG94–4, 003, Alabama-Tennessee Natural Gas Company
CAG–39.
Docket# RP95–114, 000, Colorado Interstate Gas Company
CAG–40.
Omitted
CAG–41.
Docket# CP93–258, 007, Mojave Pipeline Company
CAG–42.
Docket# CP94–196, 003, Williams Natural Gas Company
Other#s CP94–197, 003, Williams Gas Processing—Mid-Continent Region Company
CAG–43.
Docket# CP94–654, 002, Texas Eastern Transmission Corporation
CAG–44.
Docket# CP95–119, 002, Steuben Gas Storage Company
CAG–45.
Docket# CP92–184, 012, Texas Eastern Transmission Corporation
CAG–46.
Docket# CP94–6, 003, Texas Eastern Transmission Corporation
Other#s CP94–89, 002, CNG Transmission Corporation
CAG–47.
Omitted
CAG–48.
Docket# CP95–74, 001, Texas Eastern Transmission Corporation
CAG–49.
Docket# CP95–91, 001, ANR Pipeline Company
CAG–50.
Omitted
CAG–51.
Docket# CP95–113, 000, K N Interstate Gas Transmission Company
CAG–52.
Docket# CP95–167, 000, Koch Gateway Pipeline Company
CAG–53.
Docket# CP95–681, 000, Texas Eastern Transmission Corporation
CAG–54.
Docket# CP95–278, 000, Interstate Utilities Company
CAG–55.
Docket# CP91–2206, 010, Tennessee Gas Pipeline Company
CAG–56.
Docket# CP93–541, 004, Young Gas Storage Company, Ltd.
Other#s CP93–541, 006, Young Gas Storage Company, Ltd.
CAG–57.
Docket# CP95–300, 000, Washington Natural Gas Company
Other#s CP95–576, 000, Northwest Pipeline Corporation
CAG–58.
Docket# CP94–771, 000, Ashland Exploration, Inc.
Other#s CP94–757, 000, CNG Transmission Corporation
CAG–59.
Docket# RP95–146, 001, Texas Gas Transmission Corporation
CAG–60.
Docket# OR95–5, 000, Mobil Oil Corporation V. SFPP, L.P.
Other#s OR92–8, 000, SFPP, L.P.
OR94–4, 000, SFFP, L.P.
CAG–61.
Omitted
CAG–62.
Docket# TM96–1–34, 000, Florida Gas Transmission Company
CAG–63.
Docket# OR89–2, 008, Trans Alaska P/L System
Other#s IS89–7, 008, Amerada Hess Pipeline Corp.
IS89–8, 003, ARCO Transportation Alaska, Inc.
IS89–9, 008, BP Pipelines (Alaska Inc.) Inc.
IS89–10, 008, Exxon Pipeline Company
IS89–11, 008, Mobil Alaska P/L Company
IS89–12, 008, Phillips Alaska P/L Corp.
IS89–13, 008, Unocal Pipeline Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Docket# RM95–4, 000, Final Rule. Revisions to uniform system of accounts, forms, statements, and reporting requirements for natural gas co.
PR–2.
Docket# RM95–3, 000, Final Rule. Filing requirements for interstate natural gas company rate schedules and tariffs

II. Pipeline Certificate Matters

PC–1.
Reserved

Dated: September 20, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–23807 Filed 9–21–95; 1:58 pm]

BILLING CODE 6717–01–P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, September 28, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–23770 Filed 9–21–95; 9:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant To The Government In the Sunshine Act

(Public Law 94–409)

[5 U.S.C. Section 552b]

TIME AND DATE: 1:30 p.m., Tuesday, September 19, 1995.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Resolving discrepancies between the Rules and Procedures Manual and the Code of Federal Regulations.
4. Training of U.S. Parole Commission employees.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: September 13, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–23855 Filed 9–21–95; 2:14 pm

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant To The Government In the Sunshine Act

(Public Law 94–409)

[5 U.S.C. Section 552b]

DATE AND TIME: Tuesday, September 19, 1995, 9:30 a.m.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeals to the Commission involving approximately 9 cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: September 13, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–23856 Filed 9–21–95; 2:14 pm]

BILLING CODE 4410–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1479]

TIME AND DATE: 10 a.m. (EDT), September 27, 1995.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on August 30, 1995.

Discussion Item

1. Final Rate Review.

Action Items

New Business

A—Budget and Financing

A1. Approval of Short-Term Borrowing from the Treasury.

C—Energy

C1. Proposed Increases in Prices Under Dispersed Power Price Schedule—CSPP.

C2. Contract with Argonaut Insurance Company for workers' compensation, employer's liability, and general liability insurance for the Owner Controlled Insurance Program.

C3. Extension through September 30, 1996, of the program offering incentives for employees and retirees to purchase efficient electric appliances.

E—Real Property

E1. Amendment of the Kentucky Reservoir Land Management Plan to change the allocations for a portion of Tract No. XGIR–18PT from forest management, wildlife management, and open space to allow a grant of a 25-year easement affecting approximately 20 acres of Kentucky Reservoir land in Marshall County, Kentucky, for public recreation purposes (Tract No. XTGIR–143RE).

Ee. Grant of a term easement affecting approximately 15.7 acres of TVA's Ocoee No. 1 Dam Reservation property in Polk County, Tennessee, for a public use visitor area (Tract No. XTOCR–7RE).

F—Unclassified

F1. TVA contribution to the TVA Retirement System for Fiscal Year 1996 at the rate of 6.67 percent of members' payroll.

Information Items

1. Delegation of authority to the Senior Vice President, Fossil and Hydro Power, to award contracts for the purchase of coal to the firms submitting the low acceptable offers under Requisition 31 for Kingston and Bull Run Fossil Plants: Cyprus Mountain Coals Corporation, Leslie Resources, Inc., and Tennessee Mining, Inc.

2. Supplement to Contract No. TV–92582V with Fitzgerald & Company for advertising support and delegation of authority to the Senior Vice President, Communications, to execute the supplement.

3. Abandonment of a portion of the Pickwick-Memphis transmission line right-of-way easement affecting 7.7 acres in Shelby County, Tennessee (Tract No. PM–228).

4. Approval for Fossil and Hydro Power to enter into a contract with Sverdrup Corporation to perform makeup water supply upgrades and services for TVA fossil plants.

5. Filing of condemnation cases.

FOR MORE INFORMATION: Please call TVA Public Relations at (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: September 20, 1995.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 95–23857 Filed 9–21–95; 2:14 pm]

BILLING CODE 8120–08–M

UNITED STATES ENRICHMENT CORPORATION BOARD OF DIRECTORS

TIME AND DATE: 8:00 a.m., Tuesday, September 26, 1995.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: Portions of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

- Review of commercial and financial issues of the Corporation.
- Personnel and procedural matters.

CONTACT PERSON FOR MORE INFORMATION: Barbara Arnold 301–564–3354.

Dated: September 20, 1995.

William H. Timbers, Jr.,

President and Chief Executive Officer,

[FR Doc. 95–23781 Filed 9–21–95; 1:58 pm]

BILLING CODE 8720–01–M

Corrections

Federal Register
Vol. 60, No. 105
Monday, September 25, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 50-95]

Proposed Foreign-Trade Zone--Kodiak, Alaska, Application and Public Hearing

Correction

In notice document 95–22763 appearing on page 47547, in the issue of Wednesday, September 13, 1995, make the following correction:

On the same page, in the second column, in the third paragraph, in the 11th line, ''November 22'' should read ''November 27''.

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No.950810-206-5224-02; I.D.082395A]

RIN 0648-AG29

Reef Fish Fishery of the Gulf of Mexico; Amendment 11

Correction

In proposed rule document 95–22551 beginning on page 47341 in the issue of Tuesday, September 12, 1995, make the following correction:

On page 47341, in the first column, in the DATES section, in the second line, ''October 27, 1995. '' should read ''October 23, 1995.''

BILLING CODE 1505–01–D

Federal Register

Monday
September 25, 1995

Part II

Department of Justice

Bureau of Prisons

28 CFR Part 549

Administrative Safeguards for Psychiatric Treatment and Medication; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1047–F]

RIN 1120–AA40

Administrative Safeguards for Psychiatric Treatment and Medication

AGENCY: Bureau of Prisons, Justice.

ACTION: Finalization of Interim Rule.

SUMMARY: In this document, the Bureau of Prisons adopts as final its interim regulations on administrative procedural safeguards given an inmate prior to the provision of involuntary psychiatric treatment and medication. The intent of this amendment is to maintain appropriate administrative due process procedures in the provision of necessary health care to inmates, consistent with community standards.

EFFECTIVE DATE: September 25, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is adopting as final its interim regulations on administrative safeguards in the provision of psychiatric treatment, including medication, which were published November 12, 1992 in the Federal Register (57 FR 53820). No public comment was received on the interim rule.

In adopting the interim rule as final, the Bureau is correcting a typographical error in § 549.41(b) and is making a minor adjustment to the definition of emergencies in § 549.43(b). In § 549.41(b), ''voluntarily'' had erroneously appeared as ''voluntary.'' In § 549.43(b), the definition of a psychiatric emergency is modified to include ''extreme deterioration of functioning secondary to psychiatric illness.''

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 549

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), the interim rule amending 28 CFR part 549 which was published at 57 FR 53820 on November 12, 1992 is adopted as a final rule with the following changes.

PART 549—MEDICAL SERVICES

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 549.41, paragraph (b) is revised to read as follows:

§ 549.41 Voluntary admission and psychotropic medication.

* * * * *

(b) If an inmate is to receive psychotropic medications voluntarily, his or her informed consent must be obtained, and his or her ability to give such consent must be documented in the medical record by qualified health personnel.

3. In § 549.43, paragraph (b) is amended by revising the first sentence to read as follows:

§ 549.43 Involuntary psychiatric treatment and medication.

* * * * *

(b) *Emergencies:* For purpose of this subpart, a psychiatric emergency is defined as one in which a person is suffering from a mental illness which creates an immediate threat of bodily harm to self or others, serious destruction of property, or extreme deterioration of functioning secondary to psychiatric illness. * * *

* * * * *

[FR Doc. 95–23657 Filed 9–22–95; 8:45 am]

BILLING CODE 4410–05–P

Federal Register

Monday
September 25, 1995

Part III

Utah Reclamation Mitigation and Conservation Commission

43 CFR Ch. III and Part 10000, et al.
Organization and Functions; Policies and Procedures for Developing and Implementing the Commission's Mitigation and Conservation Plan; Final Rules

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

43 CFR Chapter III and Part 10000

Organization and Functions

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Final rule.

SUMMARY: This part describes the organization and functions of the agency which was established by the Central Utah Project Completion Act. The rule meets the requirement of the Federal Administrative Procedures Act that each agency shall separately state and currently publish such information in the Federal Register for the guidance of the public.

EFFECTIVE DATE: The rule takes effect on September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Michael C. Weland, Executive Director, Utah Reclamation Mitigation and Conservation Commission, 111 East Broadway, Suite 310, Salt Lake City, Utah, 84111. Telephone: 801–524–3146.

SUPPLEMENTARY INFORMATION:

Background

The establishment of this rule provides notice to the public of the role of the Commission in mitigating for the effects of Federal reclamation projects in Utah and to take other actions for the conservation of important fish, wildlife, and recreation resources. The Commission was established to focus the authority for reclamation mitigation and to coordinate interagency efforts toward meeting mitigation needs.

Rule Content

The rule provides a description of the general organization of the agency and describes the responsibilities of the Commission as the policy making body similar to a board of directors, and the administrative duties and responsibilities of the Executive Director and staff regarding implementation of mitigation and conservation projects as authorized in the Act. It restates the purpose and objectives from the Act and contains the agency Mission Statement developed by the Commission.

List of Subjects in 43 CFR Part 10000

Authority delegations (Government agencies), Organization and functions (Government agencies).

Accordingly, a new chapter III is established in title 43 of the Code of Federal Regulations to read as follows:

CHAPTER III—UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

PART 10000—ORGANIZATION AND FUNCTIONS

Authority: 5 U.S.C. 551 *et seq.;* 43 U.S.C. 620k(note); Sec. 301(g)(3)(A) of Pub. L. 102–575, 106 Stat. 4600, 4625.

§ 10000.1 Purpose.

This part describes the general organization of the agency and the major functions of the operating units established within it.

§ 10000.2 Authority.

This part is issued under the authority of 5 U.S.C. 552 and section 301(g)(3)(A) of the Central Utah Project Completion Act (Public Law 102–575, 106 Stat. 4600, 4625, October 30, 1992).

§ 10000.3 Definitions.

Act refers to the Central Utah Project Completion Act, Titles II, III, IV, V, and VI of Public Law 102–575, October 30, 1992.

§ 10000.4 Objective.

Section 301 of the Act established the Commission to coordinate the implementation of the mitigation and conservation provisions of the Act among Federal and State fish, wildlife, and recreation agencies in the State of Utah.

§ 10000.5 Mission statement.

(a) The mission of the Utah Reclamation Mitigation and Conservation Commission is to formulate and implement the policies and objectives to accomplish the mitigation and conservation projects authorized in the Act in coordination with Federal and State fish, wildlife and recreation agencies and with local governmental entities and the general public.

(b) In fulfillment of this mission, the Commission acknowledges and adopts the following Guiding Principles for the conduct of its responsibilities.

(1) The Commission will conduct its activities in accordance with the mandate and spirit of the Act, including all other pertinent laws and regulations, and will emphasize and assure full public involvement.

(2) The Commission recognizes the existing authorities of other Federal and State agencies for the management of fish, wildlife and recreation resources and habitats in the State, and pledges to cooperate with said agencies to the fullest extent possible.

(3) The Commission is committed to raising the awareness and appreciation of fish and wildlife and their importance to the quality of life, as well as the fundamental and intrinsic right to coexistence as fellow species on our planet.

(4) Whenever and wherever pertinent, the Commission will strive to implement projects in accordance with ecosystem-based management and principles.

(5) The Commission will strive to implement projects which offer long-term benefits to fish, wildlife and recreation resources wherever and whenever pertinent.

(6) The Commission is committed to operate in a cost-effective manner, minimize overhead and operating expenses so as to maximize funds available for projects, and encourage and seek out joint-venture funding and partnerships for projects.

§ 10000.6 Organization and functions.

(a) The Commission is an executive branch agency independent from the Department of the Interior, except that the Department is the vehicle through which the Commission receives appropriated funds.

(b) The five member Commission appointed by the President is the policy-making body for the agency and has the following duties and responsibilities:

(1) Formulating the agency policies and objectives, and approving plans and projects, for implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in the Act;

(2) Reviewing and approving agency fiscal year budgets formulated and recommended by the Executive Director;

(3) Conducting public meetings on agency plans, programs, and projects;

(4) Representing the agency at Congressional hearings on annual agency appropriations or agency programs; and

(5) Reviewing and approving plans for the appointment or acquisition by the Executive Director of such permanent, temporary, and intermittent personnel services as the Executive Director considers appropriate.

(c)(1) The Executive Director is the chief executive officer of the agency and has, but is not limited to, the following duties and responsibilities:

(i) Implementing the policies, plans, objectives, and projects adopted by the Commission for implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in the Act;

(ii) Representing the Commission as directed and authorized, including serving as the liaison with Federal, State, and local government agencies and public interest groups, and providing for public notice and involvement and agency consultation with respect to Commission activities;

(iii) Attending all meetings of the Commission and participating in its discussions and deliberations; making inquiries into and conducting investigations into all agency activities; examining all proposed projects, agreements, and contracts to which the agency may become a party; preparing technical and administrative reports, agency correspondence, and other documents and materials as required; notifying the Commission of any emergency that may arise within or affect the agency; and keeping the Commission fully informed on all important aspects of the agency's administration and management;

(iv) Appointing agency staff in accordance with the staffing plan approved by the Commission and in accordance with the Federal personnel rules and regulations applicable under the Act, including: Appointing and managing qualified staff capable of carrying out assigned responsibilities; establishing compensation and standards, qualifications, and procedures for agency personnel; procuring temporary and intermittent personnel services as necessary and as are within the annual budget approved by the Commission; terminating personnel; ensuring compliance with Federal Safety Program and prescribed health and safety standards; and giving positive direction in accomplishing equal employment opportunity commitments for fair selection, encouragement, and recognition of employees;

(v) Formulating the agency budget and cost estimates to support agency plans, programs, and activities, and providing such budget recommendations and estimates to the Commission;

(vi) Executing, administering, and monitoring contracts, cooperative agreements, and such other documents as are necessary to implement mitigation and conservation projects approved by the Commission through the execution of Memoranda of Agreements, motions, or other official actions, including approving, administering, and monitoring expenditures of funds and other actions taken pursuant to such contracts, cooperative agreements, and other such documents;

(vii) Monitoring, measuring, and reporting to the Commission progress in carrying out mitigation and conservation plans and projects;

(viii) Directing the day-to-day administration of the agency, including:

(A) Approving expenditures and executing contracts and leases for the acquisition of property or services as are necessary for the administration of the agency, provided such expenditures are within the agency's annual appropriations and the annual budget as approved by the Commission, and provided further that the Executive Director shall consult with the Commission prior to the approval of any such expenditure in excess of $25,000;

(B) Enforcing, observing, and administering all laws, rules, regulations, leases, permits, contracts, licenses and privileges applicable to or enforceable by the agency; consulting with and advising agency employees; designating, in the absence of the Executive Director, a qualified agency employee to direct agency activities and to make such decisions as are required during such absence; delegating responsibility to agency personnel as in the judgment of the Executive Director will benefit agency operations and functions; and

(C) Managing and maintaining agency office space, equipment, and facilities in a sound and efficient manner; establishing and maintaining agency files and archives; and preparing and maintaining an up-to-date inventory of all agency property; and

(ix) Exercising the full power of the Commission in times of emergency until such time as the emergency ends or the Commission meets in formal session.

(2) Except in emergency situations and when specifically delegated such responsibility by the Commission, the Executive Director has no authority to formulate mitigation and conservation policies and objectives or to approve or disapprove agency plans or projects, for implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in the Act.

(d) The agency staff is organized into four functional areas:

(1) Project Administration, through the Project Manager, responsible for development and management of mitigation and conservation projects;

(2) Planning Administration, through the Planning Manager, responsible for development and coordination of mitigation and conservation plans and for environmental compliance in general;

(3) Public Information, through the Public Information Officer, responsible for preparation of reports and documents and dissemination to the public of information regarding agency programs and projects; and

(4) Administrative Services, through the Administrative Officer, responsible for administrative support services and office management.

§ 10000.7 Place of business; service of process.

(a) The principle place of business and offices of the agency are located at 111 East Broadway, Suite 310, Salt Lake City, Utah 84111. All correspondence and requests for information or other materials should be submitted to the agency at this address.

(b) The Executive Director is the agency official designated to accept service of process on behalf of the agency.

Michael C. Weland,

Executive Director.

[FR Doc. 95–23136 Filed 9–22–95; 8:45 am]

BILLING CODE 4310–05–P

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43 CFR Part 10005

Policies and Procedures for Developing and Implementing the Commission's Mitigation and Conservation Plan

AGENCY: Utah Reclamation Mitigation and Conservation Commission.

ACTION: Final rule.

SUMMARY: This planning rule establishes the Commission's policies regarding the mitigation and conservation plan required by the Central Utah Project Completion Act (Act). It defines the procedures that the Commission will follow in preparing and implementing the plan and provides information to other agencies and the public regarding how they might participate. The rule meets the requirement of the Act that a rule be established to guide applicants in making recommendations to the Commission, and to ensure appropriate public involvement. It also fulfills the Commission's need to clearly delineate a process that will be followed in preparing the plan, including the identification of the decision factors that will be used to evaluate and select the

mitigation and conservation projects to be included in the plan. The intended effects of this rule are that the public will have a clear understanding of the Commission's planning process and that the resultant plan will be built upon a foundation of sound public policy and natural resource planning theory.

EFFECTIVE DATE: The rule takes effect on September 25, 1995.

FOR FURTHER INFORMATION CONTACT: Michael C. Weland, Executive Director, Utah Reclamation Mitigation and Conservation Commission, 111 East Broadway, Suite 310, Salt Lake City, Utah, 84111. Telephone: 801–524–3146.

SUPPLEMENTARY INFORMATION:

Background

The establishment of this rule provides the Commission and the public with the necessary guidance to prepare a plan to mitigate for the effects of Federal reclamation projects in Utah and to take other actions for the conservation of important fish, wildlife, and recreation resources. The Commission was established to focus the authority for reclamation mitigation and to coordinate interagency efforts toward meeting mitigation needs. The Act (Public Law 102–575) mandates that a plan be prepared that ''shall consist of the specific objectives and measures the Commission intends to administer * * * to implement the mitigation and conservation projects and features authorized in this Act.''

Planning Rule Content

The planning rule provides direction on all aspects of the plan development process. It assigns responsibilities, defines the Commission's obligation regarding mitigation projects identified in the Act, describes the Commission's relationship with other agencies having reclamation mitigation authorities, outlines the Commission's planning and decision process, and delineates procedures for amending the Commission's plan.

Timelines and Public Participation

By law the plan must be completed by March 31, 1996. Allowing time for both technical analysis and appropriate public participation, the plan will take seven months to prepare. It is therefore essential that the plan be initiated in September of 1995. The immediate effect of the planning rule will be to permit the Commission to announce a 90 day period within which agencies and members of the public may submit proposals for mitigation and conservation projects. These proposals will be evaluated by the Commission using decision factors delineated in the planning rule. Selected proposals will be made components of the Commission's draft five-year plan. The public will be given 30 days in which to review the draft plan prior to release of a final plan. Public meetings and other means will be used to involve the public during the preparation of the plan.

Rule Preparation and Review

The planning rule was prepared in consultation with affected Federal and state agencies and other interested parties. The availability of the draft final rule was announced at the July 31, 1995 Commission meeting at which time copies were made available for agency and public review. Notice of availability was posted in the appropriate newspapers and copies mailed to agencies and individuals who had previously expressed interest. Modifications made in response to public comments were non-substantive in nature and largely consisted of clarifications. The final rule was adopted at the August 21, 1995 Commission meeting. The preliminary step of preparing a proposed rule was not required as the planning rule establishes internal management procedures that will not have a substantive effect on the actions of other agencies, levels of government, or private citizens.

List of Subjects in 43 CFR Part 10005

Administrative practice and procedure, Environmental protection, Fish, Intergovernmental relations, Natural resources, Reclamation, Recreation and recreation areas, Water resources, Watersheds, Wildlife.

For the reasons set out in the preamble, 43 CFR chapter III is amended as set forth below.

1. A new part 10005 is added to read as follows:

PART 10005—POLICIES AND PROCEDURES FOR DEVELOPING AND IMPLEMENTING THE COMMISSION'S MITIGATION AND CONSERVATION PLAN

Sec.

Authority: 43 U.S.C. 620k(note); sec. 301(g)(3) (A) and (C) of Pub. L. 102–575, 106 Stat. 4600, 4625.

§ 10005.1 Purpose.

The planning rule in this part establishes the Commission's policies regarding the mitigation and conservation plan required by the Central Utah Project Completion Act, Public Law 102- 575, 106 Stat. 4600, 4625, October 30, 1992. It defines the procedures that the Commission will follow in preparing and implementing the plan and provides information to other agencies and the public regarding how they might participate.

§ 10005.2 Definitions.

The Act refers to the Central Utah Project Completion Act, Titles II, III, IV, V, and VI of Public Law 102–575, October 30, 1992.

Applicant refers to an agency, organization, or individual providing formal recommendations to the Commission regarding projects to be considered for inclusion in the Commission's plan.

Commission means the Utah Reclamation Mitigation and Conservation Commission, as established by section 301 of the Act.

Interested parties refers to Federal and State agencies, Indian tribes, non-profit organizations, county and municipal governments, special districts, and members of the general public with an interest in the Commission's plan and plan development activities.

Other applicable Federal laws refers to all Federal acts and agency regulations that have a bearing on how the Commission conducts its business, with specific reference to the Fish and Wildlife Coordination Act of 1934, as amended (16 U.S.C. 661 et seq.); the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.); and the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Plan and *five-year plan* refer to the Commission's mitigation and conservation plan as required by section 301 of the Act.

Planning rule refers to this part, which is a component of the Commission's administrative rules and which provides guidance for the development, and implementation, of the Commission's plan.

Section 8 funds refers to the section of the Colorado River Storage Project Act that provides for congressionally authorized funds to be used in mitigating the effects of the Colorado River Storage Project on fish, wildlife, and related recreation resources.

§ 10005.3 Policy.

(a) As directed in section 301(a) of the Act, the Commission was established ''to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies. The United States Senate Committee on Energy and Natural Resources report accompanying the Act provided further clarification of Congressional intent: ''Focusing of such authority into a single entity is intended to eliminate past dispersion among several Federal and State resource management agencies of the responsibility, and therefore accountability, for reclamation mitigation in Utah.''

(b) It is the policy of the Commission that the mitigation and conservation plan, in tandem with the Act, serve as the principal guidance for the Commission in fulfilling its mitigation and conservation responsibilities. Further, the Commission will use the development of the plan, and subsequent amendment processes, as the primary means to involve agencies and the public in the Commission's decision making process.

§ 10005.4 Planning rule authority.

(a) The Commission is required to adopt administrative rules pursuant to the Administrative Procedures Act. The Commission adopts the rule in this part pursuant to that authority and to Section 301(g)(3) (A) and (C) of the Act, which provide for establishment of a rule to guide applicants in making recommendations to the Commission, and to ensure appropriate public involvement.

(b) Adoption of the planning rule constitutes a policy decision on the part of the Commission and, as such, requires formal public notification and approval by the Commission according to established procedures. The planning rule is a component of the administrative rules of the Commission and has the authority accorded to such administrative rules, as described in the Administrative Procedures Act.

§ 10005.5 Directives from the Act relating to the plan.

The basic directions for preparation of the plan are contained in Section 301 of the Act. Sections 304, 314, and 315 provide additional guidance. Provisions that hold particular relevance are identified below.

(a) *Primary authority.* Section 301(f)(1) directs that the mitigation and conservation funds available under the Act are to be used to ''conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah,'' and, further, that these funds are to be administered in accordance with ''the mitigation and conservation schedule in Section 315 of this Act, and if in existence, the applicable five-year plan.'' Section 301 further clarifies that Commission expenditures ''shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.''

(b) *Reallocation of funds.* Section 301(f)(2) provides for the reallocation of Section 8 funds if the Commission determines ''after public involvement and agency consultation * * * that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner.'' Such reallocation requires the approval of the U.S. Fish and Wildlife Service if funds are to be reallocated from fish and wildlife purposes to recreation purposes. The Commission's authority to depart from the mitigation and conservation schedule specified in Section 315 of the Act is reiterated in Section 301(h)(1).

(c) *Funding priority.* Section 301(f)(3) directs that the Commission ''shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 for project features constructed pursuant to titles II and III of this Act.''

(d) *Plan adoption and content.* Section 301(g)(1) directs that the Commission adopt a plan ''for carrying out its duties'' and that the plan ''shall consist of the specific objectives and measures the Commission intends to administer * * * to implement the mitigation and conservation projects and features authorized in this Act.''

(e) *Recommendations.* Section 301(g)(3)(A) directs that ''the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto.''

(f) *Public involvement.* Section 301(g)(3)(C) directs the Commission to provide for appropriate public involvement in the review of Commission documents produced subsequent to receiving recommendations.

(g) *Guidance on selecting measures.* Section 301(g)(4) identifies the types of measures that are to be included in the plan, namely those that will—

(1) Restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(2) Be based on, and supported by, the best available scientific knowledge;

(3) Utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(4) Complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(5) Utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(6) Be consistent with the legal rights of appropriate Indian tribes.

(h) *Definite plan report.* Section 304 directs that mitigation commitments included in the 1988 draft Definite Plan Report for the Bonneville Unit of the Central Utah Project (DPR) which have not yet been completed are to be undertaken in accordance with that report and the schedule specified in Section 315 of the Act, unless otherwise provided for in the Act.

(i) *Implementation schedule.* Section 315 identifies mitigation and conservation projects to be implemented and provides a schedule and budget for doing so. Details on select components of Section 315 may be found in Sections 302 through 313, excluding Section 304.

§ 10005.6 Responsibilities.

Responsibilities concerning implementation of this planning rule are assigned as follows:

(a) *Commission.* The Commission is responsible for adopting this planning rule, including the project evaluation procedures contained herein. The Commission is also responsible for formal adoption of the final plan and, following this, approving, on a project by project basis, of agreements to implement the specific elements contained in the plan.

(b) *Executive Director and Commission staff.* The Executive Director and Commission staff are responsible for preparing planning documents, including preliminary evaluation of projects, and for consultation with agencies and other interested parties regarding the various aspects of the planning process, in accordance with procedures set forth in this planning rule.

(c) *Department of Interior Solicitor.* The Department of the Interior's Regional Solicitor acts as the agency's attorney-advisor and is responsible for advising the Commission on legal matters related to the planning rule, the plan, and the planning process as agreed upon between the Department and the Commission.

(d) *Secretary of the Interior's Representative to the Central Utah Project.* The Secretary's Representative is responsible for monitoring the plan, and activities undertaken as components of the plan, with regard to their consistency with the Act and their compatibility with other activities required by the Act. The Secretary's Representative is also responsible for coordinating relevant activities of other agencies within the Department of the Interior and for coordinating the process by which Congressionally appropriated funds are made available for Commission mitigation and conservation activities.

(e) *Interested parties.* Federal and State resource agencies, Indian tribes, and other interests are, should they choose to become involved, responsible for providing meaningful recommendations regarding potential projects, for coordinating the development of these recommendations with other appropriate agencies and organizations, and, as applicable, for participation in implementation of projects.

§ 10005.7 Agency consultation and public involvement.

The Commission considers agency consultation and public involvement to be central components of the planning process. Interested parties will be given the opportunity to become involved at several stages in the plan development, process. The major opportunities are as follows:

(a) *Planning rule development.* The initial opportunity for involvement occurs in the preparation of this planning rule, through providing written or oral comment to the Commission prior to adoption.

(b) *Project recommendations.* The next opportunity is in the preparation of recommendations for projects to be included in the Commission's plan. The Commission will make a formal announcement that it is soliciting recommendations for potential projects. Interested parties will have ninety days within which to respond. Commission staff will, upon request and as dictated by work load, provide guidance and other assistance in the preparation of project recommendations. Interested parties are encouraged to work cooperatively with others in the preparation of joint recommendations. Commission staff will facilitate this as appropriate. Section 10005.18 provides additional direction on this. At the end of the ninety day period the Commission will make all recommendations received during that time available for public review. These will be available at the Commission office during normal business hours. Copies will also be provided to those requesting them at a reasonable charge.

(c) *Plan preparation.* At the close of the ninety day project solicitation period, the Commission will proceed to prepare a draft plan. Several opportunities for agency consultation and public involvement will be provided during the preparation of the plan. One or more public briefings will be held during this period. Briefings will be announced in appropriate local and regional media. Work sessions may also be held, sponsored either by the Commission or jointly with other interested parties, to discuss individual projects or other topics of general interest. Interested parties may also request meetings with Commission staff to discuss specific projects or issues. The availability of staff for such meetings will be dictated by work load. During this time, interested parties may also attend, and participate in, Commission meetings where the various aspects of the plan are discussed. Written comments will also be accepted during the plan preparation period.

(d) *Review of draft plan.* Following release of the draft plan, interested parties will be given thirty days within which to provide formal written comments. During this time, interested parties may request meetings with Commission staff to discuss aspects of the draft plan. The Commission will also receive comments on the draft plan at appropriate times during regularly scheduled Commission meetings. The Commission may, at its discretion, convene one or more public meetings to discuss issues related to the draft plan.

(e) *Final plan.* The release of the final plan will be announced in the media and copies made available to the public. As warranted, the Commission may hold one or more meetings to brief interested parties on the final plan.

(f) *Amendments to the plan.* The opportunities for agency consultation and public involvement described above will also be provided each time the Commission undertakes a comprehensive revision of the plan. In addition, the Commission will give appropriate public notice and grant an opportunity to comment at such times as the Commission is considering other, less comprehensive amendments. Section 10005.21 provides additional information on how agencies and the public may become involved in the plan amendment process.

§ 10005.8 Mitigation obligations.

While the Act authorizes the Commission to undertake a wide range of general planning and mitigation activities, it also specifies certain projects or groups of projects that the Commission is to implement. The Commission considers these obligations from the Act to be integral components of the mitigation and conservation plan and of the planning process used to develop this plan. From the perspective of the plan, two issues are germane. These are the extent to which these obligations must take priority over other projects, either in terms of funding or sequencing and the extent to which there is flexibility in the specific actions to be taken in fulfillment of these obligations. Through this planning rule and other means the Commission will ensure that interested parties are made aware of the implications of these obligations in order that they might use this information when participating in the development and implementation of the plan.

(a) *Description of mitigation obligations.* Obligations principally derive from three portions of the Act: Title II, section 304, and section 315. Following is a description of the obligations contained in each.

(1) *Title II.* Title II authorizes funding and provides guidance for completion of certain features of the Central Utah Project. It also provides for Commission involvement in several specific activities relating to Central Utah Project mitigation, including funding for specific Section 8 mitigation activities.

In the future, additional Title II features will be implemented. These will be subject to environmental review through NEPA or other applicable Federal laws and will, in many instances, be coupled with mitigation measures. Section 301(f)(3) of the Act directs that priority be given for funding of mitigation measures that are associated with Central Utah Project features identified in either Title II or III of the Act that have been, or will be, authorized through compliance with NEPA.

(2) *Section 304.* This section directs that mitigation and conservation projects contained in the DPR be completed and that this be accomplished in accordance with the DPR and the schedule specified in section 315 of the Act. Several elements of the DPR have been either completed or initiated.

(3) *Section 315.* This section identifies several mitigation and conservation projects that are to be implemented to enhance fish, wildlife, and recreation resources. It also identifies the funds that are to be authorized for each project. Initial phases of selected section 315 projects have already received Commission funding approval. Additional section 315 projects have undergone substantial review and detailed implementation plans have, in some cases, been prepared.

(b) *Commission policy on fulfilling obligations.* As referenced in § 10005.5, Section 301(f)(1) and (2) of the Act provides for re-programming of Section 8 funds to other projects in accordance with the plan and/or following appropriate public involvement and agency consultation, and provided ''that the benefits to fish, wildlife, or recreation will be better served'' by doing so. The Commission interprets this as giving the Commission broad discretion to determine, with appropriate agency consultation and public involvement, whether to implement projects delineated in the above stated sections and, should the Commission choose to implement these, the form that this implementation will take.

(1) This notwithstanding, the Commission recognizes that the projects referenced in Title II, Section 304, and Section 315 have, in most cases, undergone considerable planning as well as agency and public scrutiny. Their inclusion in the Act represents a consensus among Federal and state agencies, water developers, and the national and state environmental communities that these mitigation measures have merit. Further, NEPA proceedings have, in some instances, been completed.

(2) Absent the plan, the Commission will rely on Title II, Section 304, and Section 315 as the principal guidance in authorizing projects. Once adopted, the plan will become the principal form of guidance. In selecting projects for the plan, mitigation measures referenced in Title II, Section 304, and Section 315 will be given priority consideration. They will, however, be subjected to the same analysis as other proposed projects. Should these projects be found to not meet the Commission's standards for project approval, they will be rejected. Title II, Section 304, and Section 315 projects that meet Commission standards will only be superseded in the plan if it can be demonstrated that the contributions to be made by other projects proposed through the project solicitation process significantly outweigh those of the aforementioned Title II, Section 304, and/or Section 315 projects.

(3) Regardless, the Commission will retain flexibility regarding how Title II, Section 304, and Section 315 projects will be implemented. Interested parties may, if they choose, propose modifications or enhancements to these projects through the normal project solicitation process. The Commission will pay particular attention to proposals that will accomplish Title II, Section 304, or Section 315 measures at lower cost, thereby freeing up funds for heretofore unidentified projects.

(4) The Commission is aware that future NEPA procedures related to the development of Title II features may result in the identification of additional impacts and mitigation measures. The Commission considers implementation of measures that result from a formal NEPA procedure to be non-discretionary. The Commission recognizes a commitment to implement such measures as are within its authority. Further, in accordance with Section 301(f)(3), the Commission is committed to giving these measures high priority. In order to ensure that such measures are consistent with the Commission's overall program, and can be implemented within budget, the Commission will take an active role in NEPA procedures that are likely to result in significant mitigation obligations for the Commission.

(5) If the Commission chooses not to implement a mitigation measure or, for any reason be unable to implement a measure resulting from NEPA procedures, the Commission will conduct, or cause to have conducted, a supplemental environmental evaluation to determine suitable alternative mitigation measures. The Commission will implement the findings of that evaluation to the extent possible. The only exception will be when the Commission proposes to substitute an equivalent mitigation measure that meets with the approval of applicable Federal, State, or Tribal fish and wildlife agencies, the Secretary of the Interior, and other affected parties.

(6) In order to assist agencies and other interested parties in understanding the scope of the obligations contained in Title II, Section 304, and Section 315, and others that may arise in the future, the Commission will, at the time it invites recommendations on measures to be included in the plan, prepare and distribute a list of projects that the Commission considers to be obligations as defined in this section.

§ 10005.9 Relationship of the plan to congressional appropriations and Commission expenditures.

(a) The plan itself does not constitute a commitment of resources for any given project. The commitment to expend resources is dependent upon Congressional appropriation, and, following this, Commission approval of specific projects.

(b) The Commission will rely on the plan as the primary source of information for the development of the agency's annual budget. For each fiscal year, projects identified in the plan will be arranged into a series of programs based on project type or ecological and geographical associations. These programs will serve as the basis for the agency's budget request.

(c) Once the budget request is formulated and submitted to the Congress, the request may be altered or reformulated by the Congress before the appropriation statute is finally approved. The appropriation statute will then control the implementation of the plan. In light of the controlling nature of the appropriation statute over the implementation of the plan, the plan must maintain sufficient flexibility to allow adjustments to comply with appropriations. The amendment process described in § 10005.21 provides the mechanism for modifying the plan to correspond to changes in Congressional appropriations. Changes to the annual project portfolio will, in most instances, constitute a ''substantive'' amendment as described in § 10005.21.

(d) Once appropriations have been approved by the Congress, the plan will serve as the principal guidance to the Commission in entering into agreements and approving the expenditure of funds for specific projects.

§ 10005.10 Relationship of the plan to the authorities and responsibilities of other agencies.

Within Utah, several federal agencies, state agencies, and tribal governments have authorities and responsibilities related to the management of fish and wildlife resources, through management of the resource itself, through management of the land and water upon which fish and wildlife depend, or, in the case of Federal reclamation projects, through involvement in mitigation activities. The Act specifically recognizes the authority of other Federal and State agencies to take actions in accordance with other applicable laws. The guidance for this is provided by Section 301(a)(2), which states that ''Nothing herein is intended to limit or restrict the authorities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, or recreation resources in the State in accordance with applicable provisions of Federal or State law.'' In preparing and implementing its plan, it is the Commission's intent to form a cooperative partnership with other agencies having fish, wildlife, and recreation responsibilities and authorities, both recognizing and relying upon their authorities. The Commission recognizes that these agencies may have specific legal obligations to take actions to maintain or restore fish, wildlife, or recreation resources that are independent of Commission mandates. While the Commission will, as appropriate, authorize the use of funds to complement the resource protection and restoration activities of these agencies, Commission involvement should not be viewed as a replacement for funding or other actions that are rightfully the responsibility of another agency.

(a) *Agencies with land management authority.* The Commission recognizes that the Federal government, the State of Utah, and applicable Indian tribes each own and/or manage lands that are important to fish and wildlife resources and provide significant outdoor recreation opportunities. At the Federal level, the Forest Service manages National Forest System lands, the Fish and Wildlife Service manages national wildlife refuges, the National Park Service manages national parks, monuments, and recreation areas, the Bureau of Reclamation manages reservoirs and lands adjoining those reservoirs, and the Bureau of Land Management manages other public lands. Indian tribes own and manage lands in accordance with treaties between the tribes and the United States Government. The State of Utah owns and manages state parks, wildlife management areas, and public trust lands. The Commission recognizes the importance of federal, tribal, and state lands to fish, wildlife, and recreation and will entertain proposals for mitigation and conservation activities involving these lands when the following conditions are met:

(1) The managing agency concurs with the proposed action,

(2) All appropriate legal procedures have been followed, and

(3) The land management agency is willing to assume long-term responsibility for operation and maintenance of mitigation and conservation features and to refrain from management activities that may negate or significantly diminish the effects of the project on fish, wildlife, or recreation.

(b) *Agencies with Federal reclamation project mitigation responsibilities and/or authorities.* Several agencies also have direct authorities and responsibilities relating to mitigation for the effects of Federal reclamation projects in Utah. These include the Department of the Interior Central Utah Project Office, the Bureau of Reclamation, the Central Utah Water Conservancy District, the Fish and Wildlife Service, and the Utah Division of Wildlife Resources. The remainder of this section summarizes the authorities and responsibilities of these agencies with regards to Federal reclamation projects, with emphasis on the Commission's relationship to these agencies. This section does not identify or describe all of the potential relationships between the Commission and other agencies with Federal reclamation project mitigation obligations. As appropriate, the Commission may enter into formal agreements with any or all of the above agencies in order to provide additional detail regarding the relationship or to assign specific program or project responsibilities. The arrangements that are described in this section may also be modified through interagency agreement.

(1) *Secretary of the Interior's Representative to the Central Utah Project.* As required by Section 201(e) of the Act, the Secretary of the Interior is ultimately responsible for carrying out all responsibilities specifically identified in the Act. The Secretary's Representative serves as the Secretary's official representative to the Central Utah Project. The Secretary's Representative monitors activities undertaken in fulfillment of the various aspects of the Act to ensure that these activities, including mitigation activities, are in accordance with applicable law and that Federal funds are used appropriately. The Secretary's Representative also coordinates activities among Department of the Interior agencies involved with the Central Utah Project. The Commission is a Federal Commission within the executive branch of government and its activities are subject to the direct oversight of Congress. While essentially independent of the Secretary of the Interior, the Commission nevertheless has a vital relationship with the Department via both the budget process and the similarity in missions. The Secretary's Representative serves as the principal link between the Commission and the Department of the Interior and is responsible for transmitting Congressional appropriations to fund the Commission's mitigation, conservation, and administrative activities. For purposes of plan development and implementation, the following will guide the Commission's relationship to the Secretary's Representative:

(i) The Commission acknowledges the authority of the Secretary in overseeing implementation of the Act and recognizes that the Secretary's Representative plays an essential role in ensuring the compatibility of mitigation and conservation measures with the overall Central Utah Project. The Commission is committed to a strong and productive partnership with the Secretary's Representative in fulfilling the Commission's mitigation and conservation responsibilities.

(ii) The Commission will maintain close communication with the Secretary's Representative regarding the relationship between the plan and Congressional appropriations. The Commission will provide the Secretary's Representative with both long range and annual funding proposals and otherwise assist in preparing the Commission's budget requests to Congress.

(iii) The Commission and the Secretary's Representative will independently and cooperatively monitor the plan in terms of meeting Section 8 mitigation obligations as directed by the Act.

(iv) The Commission will actively involve the Secretary's Representative in the Commission's NEPA related activities, including the identification of appropriate roles for the Secretary's Representative and Department of the Interior agencies in the preparation and review of NEPA documents.

(v) The Commission will, as appropriate, involve the Secretary's

Representative in coordinating Commission mitigation and conservation activities with the Bureau of Indian Affairs and with individual Indian tribes.

(vi) The Commission will utilize the Secretary's Representative as its principal contact for matters regarding the Department of the Interior and, when appropriate, will seek assistance from the Secretary's Representative in coordinating activities involving agencies within the Department, especially when activities involve several agencies. The Commission will, as appropriate, involve the Secretary's Representative in resolving differences that might arise among the various agencies within the Department with regard to the Commission's plan, or the implementation of any measure contained in the plan. This provision does not alter the direct working relationships that the Commission maintains with the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the Bureau of Land Management, and other applicable agencies.

(2) *U.S.D.I. Bureau of Reclamation.* Prior to the Act, the Bureau of Reclamation (Bureau) had the responsibility for implementing mitigation measures associated with Federal reclamation projects within the State of Utah. Section 301(a)(1) of the Act granted authority to the Commission ''to coordinate the implementation of the mitigation and conservation provisions of this Act.'' Section 301(n) further transferred from the Bureau to the Commission ''the responsibility for implementing Section 8 funds for mitigation and conservation projects and features authorized in this Act.'' While the Act therefore clearly transfers mitigation responsibilities concerning the Bonneville Unit of the Central Utah Project from the Bureau to the Commission, it does not alter the Bureau's mitigation responsibilities with respect to other components of the Colorado River Storage Project or other Federal reclamation projects in Utah. For purposes of plan development and implementation, the following will guide the Commission's relationship to the Bureau:

(i) The Commission recognizes that the Bureau and the Commission share fish, wildlife, and recreation mitigation responsibilities associated with Federal reclamation projects within the State of Utah and is committed to maintaining a strong and productive partnership with the Bureau in this regard.

(ii) Except for those features that the Secretary has assigned to others in allocating the $214,352,000 increase in CRSP authorization specified in Section 201(a) of the Act, the Commission has the primary authority and responsibility for all mitigation projects involving use of Section 8 funds for the Bonneville Unit and for alternative formulations of the Uintah and Upalco units of the Central Utah Project, and all mitigation projects identified in Section 315 of the Act, or as modified in the plan.

(iii) The Bureau retains the responsibility and primary authority to undertake fish, wildlife, and recreation mitigation and conservation activities for Federal reclamation projects in Utah other than those as described in paragraph (b)(2)(ii) of this section wherein the Bureau acts at the direction of the Commission. The Commission also has the authority to undertake selective fish, wildlife, and recreation mitigation and conservation activities concerning these same projects, as authorized in Section 315 of the Act or in the plan. The Commission will actively consult with the Bureau with regard to potential mitigation or enhancement activities in those areas in order to ensure that Bureau and Commission mitigation activities are coordinated.

(iv) The Bureau retains responsibility for implementation of fish, wildlife, and recreation mitigation measures associated with Federal reclamation projects in Utah that were initiated prior to the establishment of the Act where that responsibility has not specifically been transferred to the Commission, a water district, or other entity.

(v) The Bureau retains responsibility for operation, maintenance, and replacement of facilities related to fish, wildlife, and recreation mitigation measures undertaken by the Bureau where that responsibility has not specifically been transferred to the Commission, a water district, or other entity.

(vi) The Bureau retains responsibility for mitigating future impacts to fish, wildlife, and recreation caused by operation, maintenance, and replacement of water resource development facilities where that responsibility has not specifically been transferred to the Commission, a water district, or other entity.

(vii) The Commission has no responsibility or authority for mitigation or replacement measures associated with Federal reclamation projects in Utah that are not related to fish, wildlife, and recreation.

(3) *Central Utah Water Conservancy District.* The Central Utah Water Conservancy District (District) is responsible for construction, operation, and management of the various features of the Central Utah Project. NEPA compliance regarding many of these features has resulted in the identification of several measures that are to be undertaken as mitigation for the Central Utah Project's impacts to fish, wildlife, and/or recreation. NEPA compliance for future project features is likely to identify additional fish, wildlife, and recreation mitigation and conservation measures. The Act directs that the Commission give funding priority to measures that result from applicable NEPA procedures. The Act does not, however, specify what role the Commission is to have in determining, or planning for, these measures. For purposes of plan development and implementation, the following will guide the Commission's relationship to the District:

(i) The Commission is committed to maintaining a strong and productive partnership with the District in order to adequately plan for and implement mitigation measures associated with the Central Utah Project.

(ii) The Commission recognizes that the District and the Commission have complementary responsibilities for fish, wildlife, and recreation mitigation regarding the Central Utah Project. The District retains the overall responsibility for planning for mitigation activities associated with its completion of the Central Utah Project. The Commission has the responsibility for ensuring that mitigation measures meet with the intent of the Act with regard to protection and restoration of fish, wildlife, and recreation resources and for approving and implementing mitigation and conservation measures. Accordingly, the Commission will monitor District mitigation and conservation planning activities and provide such assistance as is mutually agreed upon.

(iii) The Commission will actively monitor or, as appropriate, participate in NEPA procedures undertaken by the District that may result in the identification of mitigation and conservation measures that, if implemented, would require Commission funding or may affect other mitigation activities of interest to the Commission. For NEPA procedures that are likely to result in significant Commission obligations, the Commission may request ''joint lead agency'' status with the District. In such instances the specific involvement of the Commission in the preparation of NEPA documentation will be determined through agreement with the District.

(iv) The District retains responsibility for mitigating future impacts to fish,

wildlife, and recreation caused by the operation, maintenance, and replacement of its water resource development facilities, unless that responsibility has been specifically transferred to the Commission or other entity.

(v) The District retains responsibility for operation, maintenance, and, where necessary, replacement of fish, wildlife, and recreation mitigation features managed by the District, unless that responsibility has been specifically transferred to the Commission or other entity.

(4) *U.S. Fish and Wildlife Service.* The U.S. Fish and Wildlife Service (Service) has mandated responsibility to implement several acts relevant to the Commission's activities. In Section 301(b)(3), the Act specifically references a Commission obligation to comply with the Fish and Wildlife Coordination Act (FWCA) and the Endangered Species Act (ESA). Other acts administered by the Service and relevant to Commission activities include, but are not necessarily limited to, the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) and the Bald Eagle Protection Act (16 U.S.C. 668–668d). The FWCA directs that the Service, and the state fish and wildlife agency, must be consulted where the ''waters of any stream or other body of water are proposed or authorized to be impounded, diverted * * * or otherwise controlled or modified * * * by any department or agency of the United States, or by any public or private agency under Federal permit or license. * * *'' The purpose of this consultation is to provide for ''the conservation of wildlife resources by preventing loss of and damage to such resources.'' The FWCA provides the major mechanism for Service involvement in the Federal reclamation project decision process. The Service's most important role in Federal reclamation projects is in the development and later the monitoring of fish and wildlife mitigation measures. The Service is also responsible for reporting to the Secretary of the Interior on the status of mitigation programs. The Fish and Wildlife Coordination Act provides for the funding of Service FWCA consultation by the agency sponsoring the proposed activity. The Service's ESA responsibilities that are most relevant to Commission activities include listing of new species, preparation and implementation of recovery plans and consultations regarding adverse effects on listed species. Section 7(a)(1) of the Endangered Species Act authorizes Federal agencies to carry out programs for the conservation of endangered and threatened species. Participating in, and being consistent with, recovery plans is a fundamental component of this obligation. Section 7(a)(2) of the ESA requires that, prior to taking any action that may affect a listed species, a Federal agency must consult with the Service to ensure that the action will not jeopardize the continued existence of the species or adversely modify critical habitat. The Migratory Bird Treaty Act (MBTA) establishes a Federal role in protecting bird species that generally migrate across national boundaries. In Utah, these include most indigenous bird species. The MBTA is not intended as a substitute for state wildlife management authority but rather as a complement. The Service is responsible for implementing many of the features of the MBTA, and for encouraging states to undertake actions to protect migratory bird species. The Bald Eagle Protection Act prohibits the taking or possession of either bald or golden eagles, both of which commonly inhabit areas near Utah's rivers and wetlands. For purposes of plan development and implementation, the following will guide the Commission's relationship to the Service:

(i) The Commission acknowledges the biological expertise of the Service with regard to Federal reclamation projects and other Commission activities relating to the protection and restoration of fish and wildlife resources and will seek to utilize this expertise to the fullest extent. The Commission further recognizes the similarity in agency missions with regard to fish and wildlife mitigation and conservation and is committed to a strong and productive partnership with the Service in this regard.

(ii) The Commission acknowledges the Service's mandated responsibility with regard to Federal reclamation projects and will specifically consult with the Service regarding activities that are subject to the FWCA. These include both projects directly related to mitigation for Federal water resource projects and applicable fish, wildlife, and recreation conservation projects. In developing its plan and adopting specific projects, the Commission will give significant weight to the Service's recommendations. Should the Commission choose to not follow Service recommendations, it will seek resolution through active consultation with the Service. As appropriate, the Utah Division of Wildlife Resources will be asked to be involved in these consultations as that agency also has co-responsibilities under the FWCA. Should no agreement be reached, the Commission will document its decision and provide this to the Service. The Commission recognizes that the Service has a responsibility to forward its FWCA reports to the Secretary regardless of the resolution of issues contained in the reports. The Commission recognizes that several projects contained in Title II, Section 304, and Section 315 have previously been subjected to Service evaluation pursuant to FWCA. Prior to reallocating funds authorized for these projects, the Commission will formally consult with the Service regarding the relative adequacy of proposed new projects, or significant modifications to Title II, Section 304, or Section 315 projects, in mitigating for impacts to fish and wildlife resources.

(iii) The Commission will comply with applicable provisions of the ESA and, accordingly, will consult with the Service regarding activities that may affect a listed or candidate species, regardless whether the effect is beneficial or adverse. In addition, the Commission will endeavor to undertake mitigation and conservation projects that are consistent with an adopted recovery plan for a listed species and that aid in the protection of candidate species.

(iv) The Commission will, in accordance with the Act, formally seek the Service's approval prior to reallocating funds from a project whose primary objectives are the protection and/or restoration of fish and wildlife resources to a project whose objectives are primarily related to recreation. No such funds will be reallocated unless this meets with the approval of the Service.

(v) The Commission anticipates that the Service will be an active participant in the planning for, and implementation, of mitigation and conservation projects undertaken pursuant to the Commission's plan.

(vi) The Commission will invite the Service to participate in NEPA activities undertaken or funded by the Commission that bear on fish and/or wildlife resources. The form that this participation will take will be determined on a case-by-case basis and will require agreement on the part of both agencies.

(5) *Utah Division of Wildlife Resources.* As is the case with other states, the State of Utah has the exclusive jurisdiction over non-migratory fish and wildlife and shared jurisdiction (with the U.S. Fish and Wildlife Service) over all migratory birds and Federally listed threatened and endangered fish and wildlife within the state. The applicable state law is Utah Code, Section 23–15–2, which

states that ''All wildlife within the state, including but not limited to wildlife on public or private lands or in public or private waters within the state, shall fall within the jurisdiction of the Division of Wildlife Resources.'' The Utah Division of Wildlife Resources (UDWR) has authorities and responsibilities at the state level similar to those of the U.S. Fish and Wildlife Service at the Federal level, and, like the Service, has mandated authorities under the Federal Fish and Wildlife Coordination Act that relate directly to Federal Reclamation project mitigation. These authorities are described in paragraph (b)(4) of this section. In addition, the Act provides for the UDWR to assume primary responsibility for implementing measures associated with the Act after the Commission expires. In addition to the UDWR's responsibilities and authorities discussed above, the State of Utah also has jurisdiction over other activities that are relevant to the Commission's plan, including the granting of water rights and, except on Federal and tribal lands, management of land use. For purposes of plan development and implementation, the following will guide the Commission's relationship to the UDWR:

(i) The Commission acknowledges the biological expertise of the UDWR with regard to Federal reclamation projects and other Commission activities relating to the protection and restoration of fish and wildlife resources and will seek to utilize this expertise to the fullest extent practicable. The Commission further recognizes the similarity in agency missions with regard to fish and wildlife mitigation and conservation and is committed to a strong and productive partnership with the UDWR in this regard.

(ii) The Commission acknowledges the UDWR's authority over the management of fish and wildlife within the State and will take no action that is inconsistent with this authority.

(iii) The Commission acknowledges that the UDWR has a mandated authority regarding the planning and monitoring of Federal reclamation mitigation. As is the case with the Service, the Commission will formally consult with the UDWR regarding projects that are subject to the FWCA. These include both projects directly related to mitigation for Federal reclamation projects and applicable fish and wildlife conservation projects not directly related to any Federal reclamation project. Consultation will be in accordance with procedures defined in the FWCA. It is anticipated that this consultation will be conducted in conjunction with the Service. However, the Commission recognizes that the UDWR has the right to prepare recommendations independent of the Service should it so desire. The Commission will, in making its decisions, give significant weight to recommendations made by the UDWR. Should the Commission choose to not follow the UDWR's recommendations, it will seek to resolve outstanding issues through active consultation with the UDWR. As appropriate, the Service will be asked to be involved in these consultations. Should no agreement be reached, the Commission will document its decision and provide this to the UDWR. The Commission recognizes that several mitigation projects contained in Title II, Section 304, and Section 315 have previously been subjected to the UDWR evaluation pursuant to FWCA. As is the case with the Service, the Commission will specifically consult with the UDWR prior to significantly modifying or reallocating funds away from these projects.

(iv) The Commission will specifically consult with the UDWR regarding any project that might have an affect on species identified by the UDWR as wildlife species of special concern and species listed by the UDWR Natural Heritage Program as G1 and G2 plant and animal species.

(v) The Commission anticipates that the UDWR will be an active participant in the planning for, and implementation, of mitigation and conservation projects undertaken pursuant to the Commission's plan.

(vi) The Commission will invite the UDWR to participate in NEPA activities undertaken or funded by the Commission that bear on fish and/or wildlife resources. The form that this participation will take will be determined on a case-by-case basis and will require agreement on the part of both agencies.

§ 10005.11 Environmental compliance.

(a) Section 301(c)(3) establishes that the Commission is to be considered a Federal agency ''for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (NEPA), and the Endangered Species Act of 1973.'' While not specifically referenced in that section, the Federal Water Pollution Control Act (Clean Water Act) (33 U.S.C. 1251 et seq.) also contains environmental compliance provisions that are directly relevant to the Commission's mitigation and conservation activities. The Commission is committed to full and active compliance with these laws as well as applicable State environmental law.

(b) The Commission's NEPA procedures are addressed in a different chapter of the agency's administrative rules. Because the plan is subject to alteration or amendment under a number of circumstances, the plan does not constitute an irretrievable commitment of resources and thus is not subject to NEPA. Projects preliminarily selected for funding by the Commission will, however, be subject to formal NEPA review. The Commission recognizes that these procedures may affect both project budgets and scheduling and will therefore give specific consideration to this when preparing the plan. As described in § 10005.16 the plan will identify, at a reconnaissance level, the need for individual projects to comply with NEPA and other Federal and State environmental laws and the opportunities available for consolidating NEPA review into programmatic or watershed-wide analysis as appropriate.

§ 10005.12 Policy regarding the scope of measures to be included in the plan.

The terms ''mitigation'' and ''conservation'' are used repeatedly throughout the Act and committee reports accompanying the Act. The importance of these terms is exemplified by the fact that Congress saw fit to include them in the official name of the Commission. The Commission interprets the term ''mitigation'' to mean activities undertaken to avoid or lessen environmental impacts associated with a Federal reclamation project or, should impact occur, to protect, restore, or enhance fish, wildlife, and recreation resources adversely affected by the project. Mitigation at the site of the impact typically involves restoration or replacement. Off-site mitigation might involve protection, restoration, or enhancement of a similar resource value at a different location. Mitigation may also involve substituting one resource feature for another. In meeting its mitigation responsibilities, the Commission sees an obligation to give priority to protection and restoration activities that are within the same watershed as the original impact and that address the same fish, wildlife, or recreation resource that was originally affected. The Commission's ''conservation'' authority allows it to invest in the conservation of fish, wildlife, and recreation resources generally, and not directly associated with any Federal reclamation project. Conservation projects may, therefore, be

considered for any area of the state, regardless of the presence of a reclamation project. Nothing in this section is meant to restrict consideration of conservation projects directly associated with a Federal reclamation project. The Commission recognizes that, with limited resources, it is not possible to address the entire range of fish, wildlife, and recreation needs throughout the State. Indeed, addressing only the most critical issues will require prudent and judicious planning and use of resources. This section defines the areas where the Commission intends to focus its attention over the long-term and, in so doing, provides guidance for the development of the Commission's mitigation and conservation plan. By defining priorities, the Commission narrows the options of applicants in making recommendations for potential projects, and of the Commission itself in selecting measures to be incorporated into the plan.

(a) *Priority resources.* The Commission's intent is to focus expenditures and activities on those areas and resources where the Commission believes that it can, consistent with its mandate, have the greatest positive impact. Accordingly, it is the policy of the Commission that projects selected for the plan must accomplish one or more of the following:

(1) Protect and/or restore aquatic systems that provide essential habitat for fish and wildlife,

(2) Protect and/or restore wetland and riparian systems that provide essential habitat for fish and wildlife,

(3) Protect and/or restore upland areas that contribute to important terrestrial ecosystems and/or support aquatic systems,

(4) Provide outdoor recreation opportunities that are dependent on the natural environment and that support the conservation of aquatic systems, and/or

(5) Address fish, wildlife, or recreation resources from a statewide context in order to provide essential information on aquatic systems or to assist in the establishment of statewide programs for fish, wildlife, or recreation conservation.

(b) *Priority projects.* In recognition of its responsibility to mitigate for Federal reclamation projects, the Commission will give special consideration to projects that:

(1) Address fish, wildlife, and recreation resources affected by the development of the Central Utah Project, including projects authorized in Title II, section 304, or section 315 of the Act, as described in § 10005.8,

(2) Address fish, wildlife, and recreation resources affected by the development of other features of the Colorado River Storage Project in Utah, or

(3) Address fish, wildlife, and recreation resources affected by the development of other Federal reclamation projects in Utah.

(c) *Specific objectives for five-year plans.* Each five-year plan will contain a set of specific objectives derived from the above elements. Objectives will be based on the Commission's determinations of the issues and resources that are in most need of attention, and the potential for making a substantial contribution to fish, wildlife, and recreation resources. Objectives may include the targeting of certain watersheds and/or basins for priority attention based on these same two factors.

§ 10005.13 Geographic and ecological context for the plan.

In accordance with the Act, the Commission has the authority to implement projects throughout the State of Utah. The Commission believes that, to be effective, the plan must be prepared, and evaluated, from a state-wide perspective and that, within the state, an ecosystem-based approach is appropriate. There is no one correct way to define an ecosystem or to approach ecosystem planning. The Commission concludes that, for its planning purposes, the watershed provides the appropriate geographic and ecological reference within which to evaluate proposed projects and otherwise plan its activities. In delineating watersheds, the Commission will be consistent with the best ecological and hydrological science and, to the extent possible, with the ecological and hydrological units currently used by the State of Utah, the U.S. Fish and Wildlife Service, and other applicable Federal agencies. The Commission recognizes that mitigation and conservation projects may vary in scale and that, therefore, one standard set of watersheds is not necessarily appropriate for all projects. For example, a more localized project may best be analyzed from a ''watershed within a watershed'' perspective. Alternatively, a large-scaled project may need to be visualized from the perspective of a major river basin consisting of several watersheds. The Commission will prepare, and have available for public use, a list or map that identifies major basins, watersheds, and, where appropriate, hydrologic units within watersheds, that the Commission will use to organize its mitigation and conservation activities. This list or map may be revised from time to time as circumstances change.

§ 10005.14 Resource features applicable to the plan.

In accordance with the Act, projects selected for funding must make substantial contributions to fish, wildlife and/or recreation resources. Biological projects may focus on the protection or restoration of an individual species, a group of inter-related species, or the habitats upon which these species depend. Projects that target sensitive plant species may also be included in the plan, particularly if they contribute to the overall health of the ecosystem. Recreation projects should be targeted at increasing the quality of and/or access to outdoor recreation opportunities that rely on the natural environment or at providing opportunities that have been reduced through Federal reclamation projects. Following is a representative list of the types of resources that projects may target, along with examples of possible activities that might be undertaken for each. The following list is not intended to limit the scope of projects that may qualify for inclusion in the Commission's plan:

(a) Fish and Wildlife Production, including:

(1) Enhancement of natural production,

(2) Restoration of indigenous species,

(3) Scientific studies,

(4) Development of new or upgraded culture facilities.

(b) Plant Propagation, including:

(1) Protection of critical habitat for sensitive species or communities,

(2) Reintroduction of native plants in conjunction with habitat restoration projects,

(3) Vegetation manipulation to achieve desired ecological conditions.

(c) Stream Habitat, including:

(1) Protection or enhancement of instream flow,

(2) Restoration of natural flow regimes,

(3) Improvement to water quality,

(4) Restoration of natural channel, bank, and riparian conditions,

(5) Restoration of natural instream and bank cover conditions.

(d) Lake Habitat, including:

(1) Stabilization of water level,

(2) Water quality protection or improvement,

(3) Restoration of natural lakebed conditions,

(4) Riparian area maintenance,

(5) Outlet flow maintenance.

(e) Wetlands Habitat, including:

(1) Protection of existing wetlands,

(2) Restoration of drained or otherwise degraded wetlands,

(3) Enhancement of wetland habitat.

(f) Upland Habitat, including:

(1) Protection or restoration of migration corridors,

(2) Re-connection of fragmented habitats,

(3) Protection of critical habitats,

(4) Habitat condition improvement.

(g) Outdoor Recreation, including:

(1) Establishment of fishing and boating access,

(2) Establishment of greenways and low impact trails,

(3) Providing opportunities for wildlife related recreation, including hunting and observation,

(4) Providing opportunities for passive recreation and sightseeing,

(5) Stocking waters with fish (where not incompatible with biological objectives),

(6) Education and interpretation related to fish, wildlife, and their habitats.

§ 10005.15 Planning and management techniques applicable to the plan.

The Commission recognizes that there are a wide range of techniques that may be employed to protect or restore natural resources. The Commission will consider projects that make use of techniques that either have previously been proven to be effective at meeting stated objectives or represent new and innovative approaches that hold promise for being effective and establishing positive precedents for future activities. Following is a representative list of techniques that the Commission may choose to fund. This list is not exhaustive. Other appropriate techniques may exist or be developed in the future.

(a) Acquisition of property (land or water), or an interest in property, for fish, wildlife, or recreation purposes.

(b) Physical restoration of ecological functions and habitat values of lands or water courses.

(c) Construction and reconstruction of facilities, such as trails, fish culture facilities, instream spawning facilities, water control structures, and fencing that aid in the conservation of fish and wildlife resources, and/or provide recreation opportunities.

(d) Regional planning aimed at conserving fish and wildlife, and/or providing recreation opportunities.

(e) Management and operations agreements, strategies, and other institutional arrangements aimed at conserving fish and wildlife and their habitats, and/or providing recreation opportunities.

(f) Inventory and assessment of biological resources.

(g) Applied research that targets specific biological information or management needs.

(h) Development of educational materials and programs aimed at increasing public enjoyment and awareness of fish and wildlife resources and the ecosystems upon which they depend.

§ 10005.16 Plan content.

(a) *Minimum requirements.* At a minimum, the plan will include:

(1) A summary of basic information from the planning rule, including project evaluation procedures and plan amendment procedures,

(2) The identification of measurable objectives for the term of the plan,

(3) A list, and description, of the projects selected for implementation during the term of the plan—with particular emphasis on projects to be implemented early in the planning cycle,

(4) A description of the relationship between the projects to be included in the plan and the Commission's mitigation obligations,

(5) A preliminary determination regarding environmental review requirements for each project,

(6) A preliminary determination of management and operation requirements and how these will be met,

(7) A budget, both for the next fiscal year and for the entire five-year period,

(8) A project phasing plan spanning the term of the plan, and

(9) A strategy for monitoring progress and evaluating accomplishments, and

(b) *Potential additions.* At the Commission's discretion, the plan may also include:

(1) A discussion of the relationship of the plan to other activities affecting fish, wildlife, and recreation resources within the State of Utah, and/or

(2) Discussions of, or information on, other topics that the Commission determines to be relevant. For example, the Commission may wish to identify mitigation and/or conservation measures that the Commission may wish to consider in later years of the five-year plan or in subsequent five-year plans.

§ 10005.17 Plan development process.

Following adoption of the planning rule, the Commission will proceed with the preparation of the plan, in adherence with the following procedures and in the order stated:

(a) A formal request for recommendations regarding potential projects will be made to Federal and State resource agencies, Indian tribes, and other interested parties. An appropriate announcement will also be made in the Federal Register. Those choosing to participate will have 90 days to submit project proposals. The project solicitation process is discussed in detail in § 10005.18.

(b) The Commission will compile all recommendations and make these available for public review at the Commission's office. The Commission will also provide copies upon request for a reasonable cost.

(c) The Commission will evaluate each project proposal according to the decision factors, standards, and evaluation procedures described in § 10005.19 and prepare a preliminary list of priority projects.

(d) One or more public meetings will be scheduled in which Commission staff will present the Commission's analysis and preliminary conclusions.

(e) The Commission will prepare a final list of projects proposed for implementation during the term of the plan.

(f) A draft plan will be prepared, approved by the Commission, and released for public review. Availability of the document will be announced in the Federal Register. The public will be given a minimum of thirty days to review the draft and submit written comments.

(g) The Commission will make necessary revisions and formally adopt a final version of the plan. Completion of the plan will be announced in the Federal Register. The Act requires that the initial final plan be completed by March 31, 1996 and be revised at least every five years thereafter.

§ 10005.18 Project solicitation procedures.

As provided for in Section 301 of the Act, the Commission will make a formal invitation to Federal and State resource agencies, Indian tribes, and other interested parties to prepare recommendations concerning projects that will be considered for funding. This invitation will take the form of a ''project solicitation packet.'' The packet will contain a cover letter, this planning rule or a reference as to where it may be obtained, a format for preparing applications, and other materials that the Commission concludes will assist in the preparation of recommendations. Appropriate announcement will also be made in the Utah media and in the Federal Register in order that other interested parties might be made aware of the opportunity to participate. To assist applicants, the format for preparing application may be made available in electronic form upon request. As warranted, the Commission

may propose specific projects and/or assist others in the preparation of recommendations in order to fully execute its obligations as described in § 10005.8. The following information will be requested of applicants:

(a) An abstract of the proposed project,

(b) Information on the applicant, including the name of the person preparing the recommendation, the official authorizing the recommendation, and partners to the application, if any,

(c) The location of the proposed project,

(d) The overall goal for the project and the specific fish, wildlife, or recreation objective(s) that the project's proponent seeks to achieve,

(e) The relationship, if any, of the proposed project to Federal reclamation mitigation and, especially, to measures delineated in Title II, Section 304, or Section 315,

(f) A description of the project, including tasks to be undertaken, products to be produced, and the expected results,

(g) A proposed budget, including, where applicable, a description of contributions to be provided by project implementors or other sources,

(h) A proposed time schedule,

(i) The identification of the entity (ies) to be involved with the project (project implementation and post-project operation and management), including their qualifications for undertaking this type of work,

(j) A description of any consultation with landowners, agencies, or other affected entities, to include documentation where appropriate,

(k) An evaluation of the project in relationship to the Commission's first five decision factors identified in § 10005.19,

(l) An evaluation of the anticipated need for NEPA documentation and compliance with the ESA, the Clean Water Act, and other applicable environmental laws, and

(m) At the option of the applicant, other information that might assist the Commission in evaluating the recommendation.

§ 10005.19 Decision factors.

This section identifies the principle decision factors that the Commission will use to evaluate the relative merit of proposed projects and the way that the Commission will apply these decision factors. The Commission has selected six general decision factors that will be used to evaluate the relative priority of proposed projects. ''Standards'' related to each decision factor provide a means for measuring the extent to which each proposed project responds to the decision factors. The Commission's decision factors and standards are as follows:

(a) *Decision Factor 1: Benefits to fish, wildlife, and recreation resources.* The following three standards apply:

(1) *Biological integrity.* Projects will contribute to the productivity, integrity, and diversity of fish and wildlife resources within the State of Utah. To meet the Biological Integrity standard, projects should accomplish one or more of the following:

(i) Protect, restore, or enhance the ecological functions, values, and integrity of natural ecosystems supporting fish and wildlife resources,

(ii) Provide conservation benefits to both species and their habitats,

(iii) Provide benefits to multiple species,

(iv) Promote biodiversity and/or genetic conservation,

(v) Aid long-term survival/recovery of species, or groups of species, that are of special concern, including:

(A) Species on the Federal List of Endangered or Threatened Wildlife and Plants,

(B) Federal category 1 or 2 candidates for listing,

(C) Species identified by the UDWR as wildlife species of special concern,

(D) UDWR Natural Heritage Program G1 and G2 plant and animal species,

(E) On lands managed by the U.S. Forest Service or the Bureau of Land Management, species of special concern as recognized by the appropriate agency, and

(F) the sensitive species conservation list developed by the Utah Interagency Conservation Committee,

(vi) Provide protection to important aquatic, riparian, or upland habitats, especially those that are either critical to a sensitive indigenous species or useful to a variety of species over a range of environmental conditions, and/or

(vii) Restore self-sustaining, naturally functioning aquatic or riparian systems, especially through the use of natural recovery methods.

(2) *Recreation opportunities.* Projects with recreation objectives will provide opportunities for high quality outdoor recreation experiences for the general public that are compatible with, and support, the conservation of biological resources and natural systems. To meet the Recreation Opportunities standard, projects should accomplish one or more of the following:

(i) Create opportunities for the public to enjoy fish, wildlife, and native plants in their natural habitats,

(ii) Provide permanent access to aquatic areas for recreation purposes,

(iii) Create opportunities for walking or bicycling that complement protection and restoration of riparian and aquatic corridors,

(iv) Create opportunities for fishing, boating, and other water-based recreation activities that complement protection and restoration of aquatic areas,

(v) Provide outdoor recreation opportunities that are lacking within the watershed or State,

(vi) Provide outdoor recreation opportunities near to or accessible by urban populations,

(vii) Provide outdoor recreation opportunities for people who are physically challenged or economically disadvantaged,

(viii) Provide opportunities for environmental education and interpretation, and/or

(ix) Do not cause a disruption to the natural environment that will, itself, require mitigation.

(3) *Scientific Foundation.* Projects will be based on and supported by the best available scientific knowledge. To meet the Scientific Foundation standard, projects should accomplish one or more of the following:

(i) Include specific and sound biological objectives,

(ii) Be supported by appropriate population and/or habitat inventories or other scientific documentation,

(iii) Provide tangible results and, to the extent possible, measurable benefits to species, habitats, and/or recreation opportunities,

(iv) Involve accepted techniques that have been demonstrated to produce significant results, or, alternatively, innovative techniques that hold promise for resolving significant issues and that might serve as models for other initiatives,

(v) Make a significant contribution to the scientific knowledge concerning ecosystem protection and restoration, and/or

(vi) Be recognized as scientifically valid by the American Fisheries Society, the Wildlife Society, or other applicable professional scientific organization.

(b) *Decision Factor 2: Fiscal responsibility.* The following three standards apply:

(1) *Fiscal accountability.* Projects will provide a substantial return on the public's investment. To meet the Fiscal Accountability standard, projects should accomplish one or more of the following:

(i) Provide significant benefit at reasonable cost,

(ii) Where alternatives exist, utilize the least cost alternative that fully meets objectives,

(iii) Continue to provide value over the long term, and/or

(iv) Encourage and facilitate economic efficiency among agencies.

(2) *Shared funding.* While not an absolute requirement, projects should, when practical, be funded through cost sharing with project participants or involve other contributions. To meet the Shared Funding standard, projects should accomplish one or more of the following:

(i) Have guaranteed partial funding from other sources,

(ii) Have a high potential for leveraging additional funding by others in the future,

(iii) Be coupled with other ongoing or proposed projects that have compatible objectives and secured non-Commission funding, and/or

(iv) Involve significant in-kind contributions by the applicant and participating agencies or organizations.

(3) *Protection of investment.* Successful implementation of projects over time will be ensured. To meet the Protection of Investment standard, projects should accomplish one or more of the following:

(i) Result in permanent, as opposed to temporary, protection to fish and/or wildlife habitats,

(ii) Have low maintenance cost and/or be self sustaining over the long term,

(iii) Have clearly assigned operations and management responsibilities and assurances of long term support on the part of implementors,

(iv) For those projects likely to require substantial operations and management expenditures, have in place a realistic strategy for obtaining the necessary funds, including, where applicable, a commitment by the applicable agency(ies) to seek necessary appropriations,

(v) Contain guarantees on the part of the applicable landowner(s) or manager(s) that incompatible land uses will not be allowed, and/or

(vi) Have a high probability that action will not be negated by other activities outside of the control of the land owner/manager.

(c) *Decision Factor 3: Agency and public involvement and commitment.* The following three standards apply:

(1) *Partnerships.* Projects should, when practical, involve a partnership among Federal and State agencies, local governments, private organizations, and/or landowners or other citizens. To meet the Partnerships standard, projects should accomplish one or more of the following:

(i) Span multiple jurisdictions or otherwise require, or benefit from, inter-organizational cooperation and involvement,

(ii) Have been proposed through a cooperative effort among two or more agencies, governments, and/or private entities, each having a stake in the outcome and/or possessing complementary expertise, and/or

(iii) Encourage, or facilitate, the establishment of complementary management plans and programs among land and resource managers.

(2) *Authority and capability.* The entities charged with undertaking and, after completion, managing each project must have the authority to be involved in the proposed activity and possess the administrative, financial, technical, and logistical capability necessary for successful implementation. To meet the Authority and Capability standard, projects should:

(i) Be supported by documented evidence that the entities involved have previously undertaken similar work successfully, and/or

(ii) Be supported by fully developed implementation plans.

(3) *Public support.* Projects should, wherever possible, enjoy broad support within the natural resource community, and/or with the public at-large. To meet the Public Support standard, projects should:

(i) Build upon previous compatible efforts that have undergone public involvement and are widely supported,

(ii) Be supported by implementation plans that have previously been subjected to peer and/or public review,

(iii) Have documented support from affected interests, and/or

(iv) Have a high probability that agency and public support will be sustained into the future. This is especially important for multi-year projects and projects that are part of a larger, long-term initiative.

(d) *Decision factor 4: Consistency with laws and programs.* The following two standards apply:

(1) *Laws and tribal rights.* Projects will be consistent with the legal rights of Indian tribes and with applicable State and Federal laws.

(2) *Complementary activities.* Projects will complement the policies, plans, and management activities of Federal and State resource management agencies and appropriate Indian tribes. To meet the Complementary Activities standard, projects should:

(i) Complement, or contribute to, established, documented fish and wildlife protection and/or restoration programs,

(ii) Be a component of, or support, a recognized ecosystem or watershed planning initiative where protection or restoration of fish, wildlife, or recreation is a primary goal, and/or

(iii) For projects involving Federal or state lands, be consistent with, and supported by, an adopted management plan.

(e) *Decision Factor 5: Other contributions.* The following two standards apply:

(1) *Public benefits.* Projects will, wherever practicable, provide benefits in addition to those provided to fish, wildlife, and recreation. To meet the Public Benefits standard, projects should:

(i) To the extent that this is compatible with the primary objective of protecting or restoring fish, wildlife, or outdoor recreation, provide opportunities for multiple use of resources,

(ii) Provide benefits to aspects of the environment beyond fish, wildlife, and recreation,

(iii) Not result in unacceptable impacts to other aspects of the environment, and/or

(iv) Contribute to the social and/or economic well-being of the community, the region, and/or the State.

(2) *Unmet needs.* Projects will satisfy significant needs that would not otherwise be met. To meet the Unmet Needs standard, projects should:

(i) Address significant fish, wildlife, or recreation needs that are unable to secure adequate funding from other sources,

(ii) Not duplicate actions already taken or underway, and/or

(iii) Not substitute for actions that are the responsibility of another agency and that must be implemented regardless of Commission involvement. This is not meant to restrict the Commission's ability to be involved in projects advanced by land management or other agencies that, while within the general responsibility of the agency, cannot be implemented because of internal funding limitations.

(f) *Decision Factor 6: Compatibility with the Commission's overall program.* This decision factor is relevant to the overall project portfolio rather than to individual projects. The following five standards apply:

(1) *Commission obligations.* Taken as a whole, the project portfolio must help fulfill the Commission's obligations for mitigation of Federal reclamation projects as described in § 10005.8.

(2) *Project mix.* The Commission's portfolio should provide an appropriate mix of projects in terms of project type, geographical distribution, and other appropriate factors. While the Commission desires to implement a broad range of projects, and to have an effect throughout the State, this alone will not determine the Commission's

mix of projects. Among the factors that the Commission will consider when selecting projects are the following:

(i) The Commission will consider concentrating projects in one watershed or basin if these projects are ecologically connected and are likely to result in a significant cumulative effect on fish, wildlife, and/or recreation that could not otherwise be realized.

(ii) The Commission will consider implementing a major, high cost project—as opposed to several smaller projects with the same total cost—if that project is likely to produce net cumulative benefits to fish, wildlife, and/or recreation that exceed those of the smaller projects.

(iii) The Commission will consider small projects that appear unconnected to other Commission activities if these can serve to demonstrate the viability of a certain type of protection and restoration project, or to establish the groundwork for additional fish, wildlife, and recreation initiatives.

(3) *Timing.* Projects should address needs that are time sensitive. To meet the Timing standard, projects should:

(i) Target immediate, high priority needs,

(ii) Target opportunities that are of limited duration,

(iii) Preempt future crises, and/or

(iv) Be consistent with identified ''critical paths'' or other logical, multiple-year project phasing plans.

(4) *Project completion.* Ongoing projects that are making satisfactory progress will generally be approved for continued funding prior to allocating funds for new projects.

(5) *Budget.* The total cost of proposed projects for any given fiscal year must not exceed the Commission's anticipated budget allocation for that year. When the total cost of qualified projects exceeds funding capability, the Commission will re-evaluate all qualified projects and identify those that, in combination, produce the most meaningful results. High cost projects will be subjected to particular scrutiny and may be scaled back, phased over multiple years, or deferred if doing otherwise would preclude other worthwhile but lower cost projects.

§ 10005.20 Project evaluation procedures.

Projects proposed for inclusion in the plan will be subjected to a systematic evaluation using the decision factors delineated in § 10005.19. The Commission may, at any time in the project evaluation process, contact applicants to ask for clarification, to propose modifications, or to otherwise cause the formulation of project proposals that are in keeping with the Commission's authority and mission. The result of the evaluation will be a preliminary list of eligible projects, arrayed by year over the term of the plan. The evaluation will adhere to the following process:

(a) Each project will be arrayed according to location (by watershed), project type, and the resource that the project seeks to address.

(b) Each project's consistency with Commission policy delineated in § 10005.12 will be determined.

(c) Complementary, competing, and duplicative projects will be identified. (If warranted, applicants may be asked to combine efforts or otherwise modify projects.)

(d) Projects that satisfy obligations described in § 10005.8 will be identified.

(e) Using best professional judgement, Commission staff will evaluate each project according to the standards delineated in § 10005.19 with the exception of Decision Factor 6, which relates to the Commission's overall portfolio and is, therefore, not applicable to the evaluation of a specific project.

(1) For each standard, a preliminary rating will be made, with the project rated as:

(i) Exceeding minimum standard,

(ii) Meeting minimum standard,

(iii) Minor deficiency in meeting standard,

(iv) Deficient, or

(v) Not applicable.

(2) Commission ratings will be contrasted to those of applicants and major discrepancies re-evaluated. Commission findings will be recorded and will be available for review.

(f) Each project will be given an overall rating based on the extent to which it meets Commission criteria as defined in paragraphs (b) through (e) of this section. The rating will be made on the basis of best professional judgement using quantitative and/or qualitative rating techniques as appropriate. A given project need not meet all standards to be selected for inclusion in the Commission's plan. A project may, for example, be deficient in an area that the Commission determines is not important for that type of project or, alternatively, deficiencies in some areas may be off-set by major assets in others. A tiered rating scale will be used, with projects grouped into two or more categories according to how well they meet Commission criteria.

(g) Projects with moderate to high ratings will then be re-evaluated from a multiple project perspective. Decision Factor 6, Compatibility with the Commission's Overall Program, will be the focus of this evaluation. For those areas with a concentration of projects this might involve a watershed-wide analysis. It will also involve a state-wide analysis. As with the previous step, the evaluation will be conducted using best professional judgement and may involve a variety of applicable techniques.

§ 10005.21 Amending the plan.

The Commission considers the plan to be a dynamic instrument that guides decisions over time and is capable of responding to changing circumstances. Amendments to the plan provide the vehicle for maintaining this dynamic quality.

(a) *Types of plan amendment.* The Commission recognizes three distinct types of plan amendment: comprehensive revisions, substantive revisions, and technical revisions. The particulars regarding each is as follows:

(1) *Comprehensive revision.* The Act requires that the Commission ''develop and adopt'' a plan every five years. At the end of each five year period the Commission will undertake a comprehensive review of the plan to determine its adequacy and the need for revision. The need to revise, and add to, the Commission's portfolio of proposed projects will be central to this review. Other elements, for example, reconsideration of the Commission's objectives for the preceding five-year period and the Commission's standards for selecting projects, may also be reconsidered. Based on this review the Commission may call for the preparation of a new plan. The consultation procedures described in § 10005.7 will apply, as will the procedures described in § 10005.17, and the procedures described in § 10005.18. The Commission is not obligated to wait five years to undertake such revision to the plan. This may be undertaken at any time that the Commission deems appropriate.

(2) *Substantive revision.* The Commission may, from time to time, determine that changes to the plan's list of projects are in order. Typically this will take the form of substituting a project in the plan with a new project, changing the order for implementation, or making significant modifications to previously selected projects. When the Commission determines that there is a need for such substantive changes, a formal announcement will be made and interested parties will be given the opportunity to provide recommendations following the procedures described in § 10005.18. Changes of this nature will not necessitate a total revision to the plan but rather involve select modifications

to specific portions of the plan. Changes to other specific elements of the plan may also be amended in this way. Portions of the plan that are proposed for modification will be released in draft form, with the public given thirty days to provide comments prior to formal adoption by the Commission. Substantive amendments provide a way to incrementally amend the plan over time without the necessity of a major rewrite and will be central to the Commission's planning process. The Commission will specifically consider the need for substantive amendments on at least an annual basis. Consideration of substantive amendments will typically be made in concert with preparation of the annual budget request.

(3) *Technical revision.* Technical revisions include changes that correct inadvertent errors or provide current information, other minor revisions that do not substantively modify the plan, or, changes in the particulars of one or more projects that do not change basic project goals and objectives nor substantively modify expected environmental effects. Technical revisions to projects might include, but are not limited to, changes in the list of participating organizations, changes in the exact location of certain project activities, and changes to specific tasks. Substitution of one project for another, or aggregation of projects, may also be considered a technical revision if the projects possess similar qualities and the action is supported by affected parties and the general public. Technical revisions do not constitute a formal amendment to the plan and do not require the notification and reporting procedures of a formal amendment. Affected agencies and interests must, however, be consulted, and the rationale for making the technical revision documented. The plan document will be corrected to reflect technical revisions, and a historical record kept in order to track the plan's evolution.

(b) *Public petitions.* Agencies and members of the public have the right to, at any time, petition the Commission to open the plan to comprehensive or substantive amendments. Petitions must be made in writing and should state the specific reason why the action is requested. The petition may be accompanied by a specific project recommendation. The Commission will, during the public session of the next official Commission meeting, announce that such a petition has been received. The Commission may choose to vote on the petition at that time or to take the matter under advisement until the following Commission meeting at which time the Commission must vote to determine if the petition has merit. Following acceptance of a petition the Commission will promptly establish the procedures and schedule that will be followed in considering amendments. Project recommendations made pursuant to a petition must be presented using the format described in § 10005.18 and will be evaluated in the manner described in § 10005.20. Proposals for technical amendments do not require a formal petition. Written requests for technical amendment will be acted upon by the Commission in a timely manner.

Michael C. Weland,

Executive Director.

[FR Doc. 95–23137 Filed 9–22–95; 8:45 am]

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Federal Register

Monday
September 25, 1995

Part IV

Department of Commerce

National Telecommunications and Information Administration

Advisory Council on the National Information Infrastructure; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Advisory Council on the National Information Infrastructure

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of Open Meeting: Notice is hereby given of a meeting of the United States Advisory Council on the National Information Infrastructure, created pursuant to Executive Order 12864, as amended.

SUMMARY: The President established the Advisory Council on the National Information Infrastructure (NII) to advise the Secretary of Commerce on matters related to the development of the NII. In addition, the Council shall advise the Secretary on a national strategy for promoting the development of the NII. The NII will result from the integration of hardware, software, and skills that will make it easy and affordable to connect people, through the use of communication and information technology, with each other and with a vast array of services and information resources. Within the Department of Commerce, the National Telecommunications and Information Administration has been designated to provide secretariat services to the Council.

DATES: The NII Advisory Council meeting will be held on Tuesday, October 10, 1995 from 9:00 a.m. until 4:30 p.m., and Wednesday, October 11, 1995 from 9:00 a.m. until 4:30 p.m.

ADDRESSES: The NII Advisory Council meeting will take place at the University of Pittsburgh, William Pitt Union Assembly Room, 5th Avenue and Bigelow Blvd, Pittsburgh, Pennsylvania 15260.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Lyle (or Ms. Tiffani Burke, alternate), Designated Federal Officer for the Advisory Council on the National Information Infrastructure, National Telecommunications and Information Administration (NTIA); U.S. Department of Commerce, room 4892; 14th Street and Constitution Avenue NW.; Washington, DC 20230. Telephone: 202–482–1835; Fax: 202–501–6360; E-mail: nii@ntia.doc.gov.

Authority: Executive Order 12864, signed by President Clinton on September 15, 1993, and amended on December 30, 1993 and June 13, 1994.

SUPPLEMENTARY INFORMATION:

Agenda

October 10, 1995

1. Welcome, Overview of Agenda
2. Universal Access and Service—adoption
3. Public Safety Principles—adoption
4. Health Care Principles—adoption
5. Security Paper—adoption
6. Policy Action Recommendations: Electronic Commerce Education, Health, Public Safety, GIS, Privacy, Security, Intellectual Property, Privacy
7. Library Panel

October 11, 1995

1. Remarks by Chancellor of University
2. KickStart Report Review
3. Policy Report Review
4. KickStart Rollout and Follow-up
5. Business Issues—summary

Public Participation

The meeting will be open to the public, with limited seating available on a first-come, first-served basis. Any member of the public requiring special services, such as sign language interpretation, should contact Tiffani Burke at 202–482–1835.

Any member of the public may submit written comments concerning the Council's affairs at any time before or after the meetings. Comments should be submitted through electronic mail to nii@ntia.doc.gov or to the Designated Federal Officer at the mailing address listed above.

Within thirty (30) days following the meeting, copies of the minutes of the Advisory Council meeting may be obtained through Bulletin Board Services at 202–501–1920, 202–482–1199, over the Internet at iitf.doc.gov, or from the U.S. Department of Commerce, National Telecommunications and Information Administration, room 4892, 14th Street and Constitution Avenue NW.; Washington, DC 20230, telephone 202–482–1835.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 95–23721 Filed 9–22–95; 8:45 am]

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Federal Register

Monday
September 25, 1995

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 58

Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 58

[Docket No. FR–3514–P–01]

RIN 2501–AB67

Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the existing environmental regulations governing entities that assume HUD responsibilities by making the environmental review procedures consistent under the various programs to which these regulations apply. This proposed rule would also make clarifying and editorial changes to the existing environmental regulations governing entities that assume HUD responsibilities.

DATES: Comment Due Date: November 24, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Environment and Energy, Room 7240, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, telephone (202) 708–2894. For telephone communication, contact Fred Regetz, Environmental Review Division at (202) 708–1201. Hearing or speech-impaired individuals may call the Federal Information Relay Service number at 1–800–877–TDDY (1–800–877–8339) and refer to (202) 708–4346.

SUPPLEMENTARY INFORMATION:

I. Background

This proposed rule would revise and restate the procedures for recipients of HUD assistance and other responsible entities in applicable HUD programs to carry out environmental reviews in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (''NEPA''), the NEPA implementing regulations of the Council on Environmental Quality (CEQ), and other NEPA related federal laws. Applicable HUD programs include any program in which specific statutory authority allows the environmental review responsibilities to be assumed by responsible entities. Currently, applicable HUD programs, and therefore those covered by part 58 only include: (1) Title I Community Development Block Grant Programs, (2) the Rental Rehabilitation Program and the Housing Development Grant Program (3) the HOME programs under the Cranston-Gonzalez National Affordable Housing Act (NAHA), (4) the homeless programs authorized by Title IV of the Stewart B. McKinney Homeless Assistance Act, (5) Grants to States and units of general local government for abatement of lead-based paint, (6) Public and Indian Housing and most Section 8 programs under Title I of the United States Housing Act for 1937, (7) Special projects appropriated under an appropriation Act of HUD, and (8) The FHA Multi-Family Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992.

A. Historical Perspective

On April 12, 1982, the Department published an interim rule in the Federal Register at 47 FR 15750, revising part 58. It set forth the environmental requirements for the Title I Community Development Block Grant programs of the Department, as authorized by section 104(g) of the Housing and Community Development Act of 1974 (HCD Act of 1974). Under section 104(g), block grant recipients may assume the environmental review responsibilities of the Secretary.

On June 7, 1984, the Department published another interim rule in the Federal Register at 49 FR 23610. It amended part 58 to implement section 17 of the United States Housing Act, as added by section 301 of the Housing and Urban Rural Recovery Act of 1983. Section 17 established two new housing programs—the Rental Rehabilitation Program (24 CFR part 511) and the Housing Development Grant Program (24 CFR part 850) and made these programs subject to section 104(g) of the HCD Act of 1974. In addition, the rule added § 58.17. Section 58.17 implemented section 17(i)(1) of the 1937 Act by establishing conditions under which assistance may be provided when the rehabilitation or development would affect a property on or eligible for inclusion on the National Register of Historic Places.

On August 10, 1988 (53 FR 30186), the Department amended part 58 by adding paragraph (a)(6) to § 58.35 to categorically exclude maintenance and administrative activities which are undertaken to support housing and shelter programs for the homeless including those authorized by the Stewart B. McKinney Homeless Assistance Act (McKinney Act). The McKinney Act was amended in 1988 by adding section 443 which authorized the use of the environmental review provisions of section 104(g) of the HCD Act of 1974 for HUD's homeless assistance programs.

An interim rule published on June 23, 1993 (58 FR 34130) amended part 58 to expand its applicability to the HOME program and the homeless assistance programs under title IV of the McKinney Act. The 1993 interim rule also broadened, where appropriate, program-specific references to various activities, responsibilities and categorical exclusions so that they apply to activities and participants under these two programs.

The 1993 interim rule also amended part 58 to relocate three statutory and regulatory provisions from the list of laws and authorities in § 58.5 for which recipients must assume environmental responsibilities. The three authorities—the Flood Disaster Protection Act of 1973 (FDPA), the Coastal Barrier Resources Act (CBRA), and the notice to purchasers of property in runway clear zones of a civil airport and clear zones of a military airfield—were relocated from § 58.5 to a new § 58.6. (HUD determined that, intrinsically, these three authorities are not like the other authorities listed in § 58.5 that trigger the environmental certification, public notice and release of funds procedures. FDPA pertains to mandatory purchase of flood insurance protection; CBRA pertains to the direct prohibition against use of any funds in designated coastal barriers; and the notice to purchasers of property in runway clear zones is a disclosure requirement.)

In this change, the Department also amended part 58 further to incorporate categorical exclusions from NEPA review and statements regarding the inapplicability of other environmental laws with respect to certain activities for which comparable provisions were already made in 24 CFR part 50. Part 50 applies to programs under which HUD itself is responsible for performing environmental reviews, and it would be anomalous to require a different standard of review for recipients where similar activities are carried out under

programs covered by part 58. The interim rule also provided an additional categorical exclusion and statement regarding inapplicability of related laws for activities to assist homeownership of existing dwelling units. (This is an important activity under the HOME program.) This provision derived from the current categorical exclusion from NEPA review for individual actions on one- to four-family properties in cases under part 50, and from HUD's determination that related laws and authorities requiring environmental reviews do not apply to such homeownership assistance.

The provision in part 58 regarding limitations on actions pending environmental clearance was also revised to more closely reflect (1) the already applicable statutory prohibition against premature commitment of HUD funds, and (2) the already applicable provision in regulations of the Council on Environmental Quality (CEQ) (40 CFR 1506.1) prohibiting premature undertaking of activities that have adverse environmental impact or limit the choice of reasonable alternatives. Finally, the Department made other clarifying and editorial revisions to part 58 in the interim rule.

On April 21, 1994, HUD published in the Federal Register (59 FR 19100) a final rule that amended 24 CFR part 585(b) to refer to HUD's Floodplain management regulations in 24 CFR part 55.

On August 26, 1994, under the Multifamily Housing Property Disposition Reform Act of 1994 (MHPDRA) the Department published an interim rule in the Federal Register (59 FR 44258) that revised the sections in 24 CFR part 58 which govern the assumption if environmental responsibilities by recipients under the HOME Investment Partnership Program and the Lead-based Paint Hazard Reduction and Abatement Program.

On March 13, 1995 an interim rule was published in the Federal Register (60 FR 13518) which provided that the part 58 procedures for the assumption and carrying out of responsibilities for environmental review, decisionmaking and action apply to public and Indian housing programs, the Section 8 program other than Section 8 assistance under 24 CFR part 866 to projects with HUD-insured or HUD-held mortgages and in connection with the disposition of HUD-owned projects special projects, and the FHA Multifamily Housing Finance Agency Risk Sharing Pilot Program covered by the MHPDRA amendments.

II. Discussion of Public Comments From 1993 Interim Rule

The Department received 6 public comments concerning part 58 in response to the interim rule published on June 23, 1993 (58 FR 34130): 4 comments from local governments and 2 comments from private housing associations. As a result of these comments, the Department proposes to make certain revisions to the June 23, 1993 interim rule which are incorporated into today's proposed rule. The following discussion summarizes the comments and provides HUD's responses to those comments. Every comment was reviewed and considered, although it may not be specifically addressed in this preamble.

Two commenters suggested that the Department exempt recipients from complying with § 58.5 unless the activity actually has a physical impact on the land. One commenter cited down payment and closing cost assistance with HOME funds as an activity with no physical impact on land, and one which should therefore not be subject to § 58.5. The Department agrees with this suggestion, and proposes to add more specific language to § 58.35(b) to restrict the applicability of § 58.5 in the case of activities which do not have any physical impact or result in any physical change to land.

Two commenters recommended that the final rule modify part 58 to allow recipients to enter into option agreements for property acquisition or to commit non-federal money prior to the completion of the environmental assessment. These commenters argued that this restriction prevents recipients from pursuing many viable projects. An option obtained by a recipient is allowable prior to the completion of an environmental review and the approval of the RROF when the recipient can cancel the option if the recipient determines that the property is undesirable as a result of the environmental review required by 24 CFR part 58 and the recipient has alternative sites under consideration or option. There is no constraint on the purchase of options or properties by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

Two commenters suggested that the Department exempt rehabilitation projects of one to four units and owner-occupied rental and homeownership projects from the environmental requirements of part 58. This Department has provided some relief in this area in §§ 58.35(a)(4) and 58.35(b). A new category of activities (actions on one to four family structures) was identified (§ 58.35(a)(7)) in the interim rule published on June 23, 1993 as being Categorically Excluded from the National Environmental Policy Act (NEPA). The proposed rule proposes to change this section to § 58.35(a)(4). Categorically excluded activities must still comply with 24 CFR 58.5 unless, on a case-by-case basis, the recipient determines the proposed action will not alter any conditions that would require compliance with any of the related laws in § 58.5. In such case, no compliance or environmental review procedure is necessary. An activity that has the potential to trigger one or more of the related laws in § 58.5 cannot be exempt.

One commenter suggested that the Department exclude all rehabilitation projects from the thresholds of § 58.35(a)(4)(i), arguing that these thresholds are not statutorily based and not relevant to rehabilitation projects, and constitute an excessive regulatory burden. The Department does not agree. The Department believes that maintaining the thresholds identified in § 58.35(a)(4)(i) is necessary to determine whether NEPA applies.

B. Proposed Rule

This proposed rule would make further changes to part 58 to ensure that the environmental review procedures are consistent for entities assuming HUD environmental responsibilities regardless of the program under which the activity is funded. In addition, it would make clarifying and editorial revisions to part 58.

In Subpart A, terms, abbreviations and definitions would be expanded to include acronyms of recently authorized programs, and would more precisely define terms such as ''unit density,'' ''vacant building'' and when extraordinary circumstances would warrant a higher level review of an activity that is normally categorically excluded.

Subpart B would be changed to clarify and emphasize the role that the responsible entity and the certifying officer play in the assumption of the responsibilities of the Secretary.

The Department has also proposed to make changes to encourage early program planning as required by the regulations implementing the procedural provisions of NEPA (40 CFR 1501.2). Changes in subpart B would emphasize (a) the need to centralize expertise in preparing reviews, (b) the development of an environmental data base, (c) balancing development and economic needs with environmental

concerns, and (d) the use of a ''tiering'' concept so that environmental reviews or assessments can consider issues ripe for review at various points in the development process. The main objective of the revisions to this subpart would be to eliminate repetitive discussions of the same issues, to allow a single review to be prepared and adopted by multiple users, and to increase the credibility of the environmental process.

The Department has proposed in subpart D to change the focus of decision-making away from the project-by-project approach to encourage communities to take environmental factors into account prior to program and site selection. This new approach would provide for the identification of areas which may be less suitable for development or which would require additional costs to develop so that these factors can be taken into consideration in making site selection decisions. It also would allow a grantee to determine in advance of the environmental review, those factors that are most relevant to each area and those that are minor or of no concern. This data would be of value to all parties proposing development in the community including private persons, non-profits and Federal, State and local governments.

A second objective of the revision of subpart D would be to identify programs and projects that are exempt by statute, categorically excluded from NEPA, or determined not subject to the related Federal authorities described in § 58.5, except under extraordinary circumstances. The list of activities that are normally considered categorically excluded would also be expanded to reflect the new programs and activities funded by the Department.

In this proposed rule, former subparts C, G and J would be incorporated into subpart A. Former subpart H would appear as subpart F, and former subpart I would appear as subpart G.

Finally, the Department has consulted with the Council on Environmental Quality and the Environmental Protection Agency by providing them with advance copies of this proposed rule. When a final rule is issued, it will take into consideration the comments and recommendations of those agencies along with the other comments submitted.

III. Other Matters

A. Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969. The FONSI is available for public inspection during regular business hours in the Office of General Counsel, the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, Federalism, has determined that the policies contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the proposed rule is not subject to review under the order. Specifically, this proposed rule modifies environmental requirements for recipients of HUD assistance and other entities that assume environmental review responsibilities for activities and projects in which specific statutory authority exists to assign the environmental review responsibilities to the recipients or to allow States and local governments to assume those responsibilities on behalf of certain recipients.

C. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order, The Family, has determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this proposed rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this proposed rule, and in so doing certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would streamline part 58 and carry out the statutory mandate of providing for the assumption of environmental review responsibilities by certain recipients of HUD assistance or other entities in accordance with section 104(g) of the Housing and Community Development Act of 1974 and similar statutory provisions.

List of Subjects in 24 CFR Part 58

Community development block grants, Environmental impact statements, Environmental protection, Grant programs—housing and community development, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 58 is proposed to be revised to read as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

Subpart A—Purpose, Legal Authority, Federal Laws and Authorities

Sec.

Subpart B—General Policy: Responsibilities of Responsible Entities

Subpart C—General Policy: Environmental Review Procedures

Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

Authority: 12 U.S.C. 1707 note; 42 U.S.C. 1437o(i) (1) and (2), 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, and 12838; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970, Comp., p. 902, as amended by E.O. 11991, 42 FR 26967, 3 CFR, 1977 Comp., p.123.

Subpart A—Purpose, Legal Authority, Federal Laws and Authorities

§ 58.1 Purpose, scope and applicability.

(a) *Purpose.* This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

(b) *Applicability.* This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

(1) Community Development Block Grant programs authorized by title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));

(2) The Rental Rehabilitation program and Housing Development Grant program authorized by section 17 of the United States Housing Act of 1937, in accordance with sections 17(i)(1) and 17(i)(2) with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, since section 17 was repealed by the Cranston-Gonzalez National Affordable Housing Act enacted November 28, 1990 (42 U.S.C. 1437o(i) (1) and (2).

(3) The Emergency Shelter Grant Program, Supportive Housing program (and its predecessors, the Supportive Housing Demonstration program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by title IV of the Stewart B. McKinney Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

(4) The HOME Investment Partnerships Program authorized by title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);

(5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

(6)(i) Public Housing Programs under Title I of the United States Housing Act of 1937, in accordance with section 26 (42 U.S.C. 1437x);

(ii) Indian Housing Programs under Title I of the United States Housing Act of 1937, including the Mutual Help Program, in accordance with section 26 (42 U.S.C. 1437x); and

(iii) Assistance administered by a public housing agency or Indian housing authority under section 8 of the United States Housing Act of 1937, except for assistance provided under 24 CFR part 886, in accordance with section 26 (42 U.S.C. 1437x).

(7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the head ''Annual Contributions for Assisted Housing'' in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547); and

(8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note).

§ 58.2 Terms, abbreviations and definitions.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

(1) *Activity* means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

(2) *Certifying officer* means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of § 58.13.

(3) *Extraordinary circumstances* means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

(i) Actions that are unique or without precedent;

(ii) Actions that are substantially similar to those that normally require an EIS;

(iii) Actions that are likely to alter existing HUD policy or HUD mandates; or

(iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

(4) *Project* means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.

(5) *Recipient* means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(b):

(i) A State that does not distribute HUD assistance under the program to a unit of general local government;

(ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

(iii) A unit of general local government;

(iv) An Indian tribe.

(v)(A) With respect to Public Housing Programs under § 58.1(b)(6)(i), a public housing agency;

(B) With respect to Indian Housing Programs under § 58.1(b)(6)(ii), an Indian housing authority;

(C) With respect to section 8 assistance under § 58.1(b)(6)(iii), a public housing agency or Indian housing authority;

(vi) Any direct grantee of HUD for a special project under § 58.1(b)(7); and

(vii) With respect to the FHA Multifamily Housing Finance Agency Pilot Program under § 58.1(b)(8), a qualified housing finance agency.

(6) *Release of funds.* In the case of The FHA Multifamily Housing Finance Agency Pilot Program under § 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter.

(7) *Responsible entity* means:

(i) With respect to environmental responsibilities under programs listed in § 58.1(b) (1) through (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in § 58.1(b) (6) through (8), a State, unit of general local government, Indian tribe or Alaska native village, when it is the recipient under the program. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(D) For Indian housing authorities (outside of Alaska), the Indian tribe in whose jurisdiction the project is located, or if the project is located outside of a reservation, the Indian tribe that established the authority; and

(E) For Indian housing authorities in Alaska, the Alaska native village in whose community the project is located, or if HUD determines this infeasible, a unit of general local government or the State, as designated by HUD.

(8) *Unit density* refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

(9) *Tiering* means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

(10) *Vacant building* means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

CDBG—Community Development Block Grant
CEQ—Council on Environmental Quality
EA—Environmental Assessment
EIS—Environmental Impact Statement
EPA—Environmental Protection Agency
ERR—Environmental Review Record
FONSI—Finding of No Significant Impact
HUD—Department of Housing and Urban Development
NAHA—Cranston-Gonzalez National Affordable Housing Act of 1990
NEPA—National Environmental Policy Act of 1969, as amended
NOI/EIS—Notice of Intent to Prepare an EIS
NOI/RROF—Notice of Intent to Request Release of Funds
ROD—Record of Decision
ROF—Release of Funds
RROF—Request for Release of Funds

§ 58.3 [Reserved].

§ 58.4 Assumption authority.

(a) *Assumption authority for responsible entities: General.* Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

(b) *Particular responsibilities of the States.* (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

(2) In accordance with § 58.18, State program agencies are authorized to exercise HUD's responsibilities with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the State, except for projects assisted by Section 17 Rental Rehabilitation assistance and Housing Development Grants. Approval by the State of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5.

(3) For section 17 Rental Rehabilitation projects and Housing Development Grants, the State program agency shall meet the responsibilities set forth in § 58.18. However, for section 17 projects, the State lacks authority to approve RROFs and therefore must forward to the responsible HUD Field Office the local recipient's certification and RROF, any objections to the release of funds submitted by another party, and the State's recommendation as to whether HUD should approve the certification and the RROF.

§ 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

(a) *Historic properties.* (1) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 *et seq.*), particularly sections 106 and 110 (16 U.S.C. 470 and 4–70h–2), except as provided in § 58.17 for Section 17 projects.

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921) particularly section 2(c).

(3) Federal historic preservation regulations as follows:

(i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and

(ii) 36 CFR part 801 with respect to UDAG.

(4) The Reservoir Salvage Act of 1960 (16 U.S.C. 469 *et seq*); particularly section 3 (16 U.S.C. 469a–1); as amended by the Archeological and Historic Preservation Act of 1974.

(b) *Floodplain management and wetland protection.* (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), as interpreted in HUD regulations at 24 CFR part 55, particularly section 2 (a) of the order (For an explanation of relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle.)

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961) particularly sections 2 and 5.

(c) *Coastal Zone Management.* The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), as amended particularly section 307 (c) and (d) (16 U.S.C. 1456 (c) and (d)).

(d) *Sole source aquifers.* (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.,* and 21 U.S.C. 349) as amended; particularly section 1424(e) (42 U.S.C. 300h–3(e)).

(2) Sole Source Aquifers (Environmental Protection Agency)— 40 CFR part 149.

(e) *Endangered species.* The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq*) as amended particularly section 7 (16 U.S.C. 1536)).

(f) *Wild and scenic rivers.* The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq*) as amended particularly section 7 (b) and (c) (16 U.S.C. 1278 (b) and (c)).

(g) *Air quality.* (1) The Clean Air Act (42 U.S.C. 7401 *et. seq.*) as amended; particularly section 176 (c) and (d) (42 U.S.C. 7506 (c) and (d)).

(2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency)—40 CFR parts 6, 51, and 93.

(h) *Farmlands protection.* (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 *et seq.*) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).

(2) Farmland Protection Policy (Department of Agriculture)—(7 CFR part 658).

(i) *HUD environmental standards.* Applicable criteria and standards specified in HUD environmental regulations (24 CFR part 51) (other than the runway clear zone and clear zone notification requirement in 24 CFR 51.303 (a)(3)) and HUD Notice 79–33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979).

(j) *Environmental justice.* Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629.)

§ 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(11) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35 (a) or (b).

(a)(1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and

(ii) Flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where a recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(c) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

§§ 58.7–58.9 [Reserved]

Subpart B—General Policy: Responsibilities of Responsible Entities

§ 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume the environmental responsibilities for projects under programs cited in § 58.1(b), and in doing so must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the procedures set forth in this part. This includes responsibility for compliance with the applicable provisions and requirements of the Federal laws and authorities specified in § 58.5. The provisions of the CEQ regulations in 40 CFR parts 1500 through 1508 are incorporated by reference into this part.

§ 58.11 Legal capacity and performance.

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part should contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(b) If a public housing, Indian housing, or special project recipient objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine

who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

§ 58.12 Technical and administrative capacity.

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the procedures of this part.

§ 58.13 Responsibilities of the certifying officer.

Under the terms of the certification required by § 58.71, a responsible entity's certifying officer is the ''responsible Federal official'' as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in § 58.5 of this part. The Certifying Officer must also:

(a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and

(b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

§ 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult, as appropriate, environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs (see 40 CFR 1501.5(b) and 1501.6). A single EIS may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

§ 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

§ 58.16 [Reserved].

§ 58.17 Historic Preservation requirements for prior Section 17 grants.

A recipient of a section 17 grant shall comply with the historic preservation requirements of this part and existing grant agreements.

§ 58.18 Responsibilities of States Assuming HUD Responsibilities.

(a) States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The State must:

(1) Designate the State agency or agencies which will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H and which will:

(i) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(ii) Receive public notices, RROFs and certifications from recipients pursuant to §§ 58.70 and 58.71; accept objections from the public and from other agencies (§ 58.73); and perform other related responsibilities regarding releases of funds.

(2) Fulfill the State role in Subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

(b) States administering section 17 Programs shall assume the responsibilities set forth in this section for overseeing the State recipient's performance and compliance with NEPA and related Federal authorities as set forth in this part, including receiving RROFs and environmental certifications for particular projects from State recipients and objections from government agencies and the public in accordance with the procedures contained in subpart H of this part. The State shall forward to the responsible HUD Field Office the environmental certification, the RROF and any objections received, and shall recommend whether to approve or disapprove the certification and RROF.

§§ 58.19–58.20 [Reserved].

Subpart C—General Policy: Environmental Review Procedures

§ 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication date of the notice which initiates the time period.

§ 58.22 Limitations on activities pending clearance.

(a) A recipient may not commit HUD assistance funds under a program listed in § 58.1(b) on an activity or project until HUD or the State has approved the recipient's RROF and the related certification of the responsible entity. In

addition, until the RROF and related certification has been approved, the recipient may not commit local (non-HUD) funds on an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. If an activity is exempt under § 58.34, or not subject to § 58.5 under § 58.35(b), no RROF is required and a recipient may undertake the activity immediately after the award of the assistance.

(b) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with 24 CFR part 58 and its cost is fully refundable. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(c) *Relocation Costs.* Relocation costs may be incurred before the approval of the RROF and related certification for the project provided that they are required by 24 CFR part 42.

§ 58.23 Financial assistance for environmental review.

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible project costs to the extent allowable under the HUD assistance program regulations.

§§ 58.24–58.29 [Reserved]

Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

§ 58.30 Environmental Review Process.

The environmental review process consists of all the actions that a responsible entity must take to determine compliance with NEPA and related provisions of law and this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with § 58.32.

§ 58.31 [Reserved]

§ 58.32 Project aggregation.

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: *Functional aggregation* when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; *geographic aggregation* when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a *combination of aggregation approaches*, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) *Multi-year project aggregation.*

(1) *Release of funds.* When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The full schedule of all the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in § 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

§ 58.33 Emergencies.

(a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

(b) If funds are needed on an emergency basis and when adherence to separate comment periods would prevent the giving of assistance, the combined Notice of FONSI and the Notice of the Intent to Request Release of Funds may be disseminated and/or published simultaneously with the submission of the Request for Release of Funds (RROF). The combined Notice of FONSI and NOI/ROF shall state that the funds are needed on an immediate emergency basis due to a Presidentially declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to assure that these comments will receive full consideration.

§ 58.34 Exempt activities.

(a) A responsible entity does not have to comply with the environmental requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

(1) Environmental and other studies, resource identification and the development of plans and strategies;

(2) Information and financial services;

(3) Administrative and management activities;

(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;

(5) Inspections and testing of properties for hazards or defects;

(6) Purchase of insurance;

(7) Purchase of tools;

(8) Engineering or design costs;

(9) Technical assistance and training;

(10) Assistance for any temporary improvements or for permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters, imminent threats or physical deterioration;

(11) Any of the categorical exclusions listed in § 58.35(a) provided that there

are no circumstances which require compliance with any other Federal laws and authorities cited in § 58.5.

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

§ 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

(a) *Categorical exclusions subject to § 58.5.* The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in § 58.5:

(1) Acquisition, repair, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met;

(i) In the case of multifamily residential buildings:

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use (from residential to non-residential); and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(ii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4) An individual action on a one - to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.

(5) Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

(b) *Categorical exclusions not subject to § 58.5.* The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under § 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homeownership of existing dwelling units, including closing costs and down payment assistance to home buyers, interest buydowns and similar activities that result in the transfer of title to a property;

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site control, project financing, loan commitments, zoning approvals, and other related activities which do not have a physical impact.

(c) *Circumstances requiring NEPA review.* If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

(d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

§ 58.36 Environmental assessments.

If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.

§ 58.37 Environmental impact statement determinations.

(a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.

(b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

(3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

(c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.

(d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where § 58.53 is applicable.

(e) *Recommended EIS Format.* The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

§ 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the ''Environmental Review Record'' (ERR), and shall be available for public review. The responsible entity must use the current HUD-recommended formats or develop equivalent formats.

(a) *ERR Documents.* The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decisionmaking and actions pertaining to a particular project of a recipient. The document shall:

(1) Describe the project and the activities that the recipient has determined to be part of the project;

(2) Evaluate the effects of the project or the activities on the human environment;

(3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and

(4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

(b) *Other documents and information.* The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

§ 58.39 [Reserved].

Subpart E—Environmental Review Process: Environmental Assessments (EA's)

§ 58.40 Preparing the environmental assessment.

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

(a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.

(b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.

(c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 and § 58.6.

(d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

(e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.

(f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.

(g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:

(1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.

(2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subparts F or G of this part.

§ 58.41–58.42 [Reserved].

§ 58.43 Dissemination and/or publication of the findings of no significant impact.

(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Offices. The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the affected community's citizen participation process.

(b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:

(1) Clearly indicate that it is intended to meet two separate procedural requirements; and

(2) Advise the public to specify in their comments which ''notice'' their comments address.

(c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. In Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

§ 58.44 [Reserved].

§ 58.45 Public comment periods.

(a) Notice of finding of no significant impact: 15 days from date of publication or if no publication, 18 days from the date of mailing and posting.

(b) Notice of intent to request release of funds: 7 days from date of publication or if no publication, 10 days from date of mailing and posting.

(c) Concurrent or Combined notices: Same as FONSI notice.

§ 58.46 Time delays for exceptional circumstances.

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

(a) There is a considerable interest or controversy concerning the project;

(b) The proposed project is similar to other projects that normally require the preparation of an EIS; or

(c) The project is unique and without precedent.

§ 58.47 Re-evaluation of assessment findings.

(a) A responsible entity must re-evaluate the EA findings when:

(1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project and its cost estimate;

(2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or

(3) The recipient proposes the selection of an alternative not considered in the original EA.

(b) The purpose of the responsible entity's re-evaluation of the EA is to determine if the FONSI is still valid. If the FONSI is still valid but the data or conditions upon which it was based have changed, the responsible entity must amend the original assessment and update its ERR by including this re-evaluation and its determination based on its findings. If the responsible entity determines that the FONSI is no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts. Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the EA before proceeding.

§§ 58.48–58.51 [Reserved].

Subpart F—Environmental Review Process: Environmental Impact Statement Determinations

§ 58.52 Adoption of other agencies' EISs.

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in § 58.64 and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

§ 58.53 Use of prior environmental impact statements.

Where any final EIS has been listed in the Federal Register for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

(a) The ERR contains a decision based on a finding pursuant to § 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS has been filed within five (5) years, and updated as follows:

(1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;

(2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

§ 58.54 [Reserved]

Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements

§ 58.55 Notice of intent to prepare an EIS.

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

§ 58.56 Scoping process.

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after publishing the NOI/EIS before holding a scoping meeting.

§ 58.57 Lead agency designation.

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

§ 58.58 [Reserved]

§ 58.59 Public hearings and meetings.

(a) *Factors to consider.* In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

(1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.

(2) The degree of interest in or controversy concerning the project.

(3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.

(4) The extent to which public involvement has been achieved through other means.

(b) *Procedure.* All public hearings must be preceded by a notice of public hearing, which must be published and disseminated in the same manner as the FONSI Notice (See § 58.43). The public hearing notice must be published at least 15 days before the hearing date. The Notice must:

(1) State the date, time, place, and purpose of the hearing or meeting.

(2) Describe the project, its estimated costs, and the project area.

(3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.

(4) State the responsible entity's name and address and the name and address of its Certifying Officer.

(5) State what documents are available, where they can be obtained, and any charges that may apply.

§ 58.60 Preparation and filing of environmental impact statements.

(a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

(b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:

(1) Five copies to EPA Headquarters;

(2) Five copies to EPA Regional Office;

(3) Copies made available in the responsible entity's and the recipient's office;

(4) Copies or summaries made available to persons who request them; and

(5) FEIS only—one copy to State, HUD Field Office, and HUD Headquarters library.

§§ 58.61–58.69 [Reserved]

Subpart H—Release of Funds for Particular Projects

§ 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

§ 58.71 Request for release of funds and certification.

(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.

(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable), has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may incur costs on these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

§ 58.72 HUD or State Actions on RROFs and Certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the State) may disapprove a certification and RROF if it has knowledge that the responsible entity has not complied with the items in § 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

§ 58.73 Objections to release of funds.

HUD (or the State) will not approve the ROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in this subpart H. HUD (or the State) can refuse the RROF and certification on any grounds set forth in § 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

§ 58.74 Time for objecting.

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

§ 58.75 Permissible bases for objections.

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

(a) The certification was not in fact executed by the responsible entity's Certifying Officer.

(b) The responsible entity has failed to make one of the two findings pursuant to § 58.40 or to make the written determination required by §§ 58.35, 58.47 or 58.53 for the project, as applicable.

(c) The responsible entity has omitted one or more of the steps set forth at subpart E for the preparation, publication and completion of an EA.

(d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.

(e) The recipient has committed funds or incurred costs not authorized by this part before release of funds and approval of the environmental certification by HUD or the State.

(f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

§ 58.76 Procedure for objections.

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

(a) Include the name, address and telephone number of the persons or agency submitting the objection, and be signed by the person or authorized official of an agency.

(b) Be dated when signed.

(c) Describe the basis for objection and the facts or legal authority supporting the objection.

(d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

§ 58.77 Effect of approval of certification.

(a) *Responsibilities of HUD and States.* HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in § 58.1(b).

(b) *Public and agency redress.* Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It shall be HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

(c) *Implementation of environmental review decisions.* Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) *Responsibility for monitoring and training.* (1) At least once every three years, HUD Field Office intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:

(i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;

(ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;

(iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

(v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.

§§ 58.78–58.79 [Reserved].

Dated: August 30, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–23645 Filed 9–22–95; 8:45 am]

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Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 965

Streamlining Public Housing Maintenance and Operation Rules; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 965

[Docket No. FR–3928–P–01]

Streamlining Public Housing Maintenance and Operation Rules

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend regulations on public housing maintenance and operation to streamline and simplify necessary requirements and to eliminate unnecessary requirements.

DATES: Comments due date: November 24, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: William C. Thorson, Acting Director, Administration and Maintenance Division, Room 4214, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–4703 (voice). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300. (Other than the ''800'' TDD number, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The burden on the public associated with the information collections is described more fully below under the heading, Other Matters. Send comments regarding this burden estimate or any other aspect of this information collection to the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

II. Background

Upon assuming the leadership of the Department of Housing and Urban Development (HUD) in 1993, Secretary Cisneros made the reinvention of HUD one of his first priorities. HUD's reinvention efforts took place in the context of a broader, government-wide reinvention process, the National Performance Review, under the leadership of Vice President Gore. At that time, HUD established five program goals to accomplish its mission that involved working for healthy growth in cities, providing adequate housing for all, and protection of society's most vulnerable people.

HUD determined that one of the first steps needed in its transformation from the old HUD to a new HUD was the consolidation and streamlining of funding programs. HUD recently submitted to Congress sweeping changes to transform public housing to a resident-based program.

Another aspect of the reinvention involve HUD's rules, which have been at the forefront of HUD's reinvention efforts since those efforts commenced in 1993. The foundation of HUD's regulatory process is Executive Order 12866 (Regulatory Planning and Review) issued by President Clinton on September 30, 1993. This order directs agencies to, among other things, explore regulatory alternatives and, if regulations are determined to be necessary, to select approaches that maximize benefits and involve enhanced public accessibility and participation in the rulemaking process.

HUD has done a comprehensive review of 24 CFR Part 965, PHA-Owned or Leased Projects—Maintenance and Operation. Part 965 contains 8 subparts, covering a wide range of topics. Based on its comprehensive review, HUD has determined that one subpart can be eliminated; three subparts can be revised and simplified; two subparts that are applicable to other housing programs can be consolidated and relocated to a new ''general'' part that will be applicable to all programs; one subpart will have to be revised to reflect new statutory requirements; and one subpart recently issued will be unchanged.

III. Proposed Changes

Subpart A, Preemption of State Prevailing Wage Rates, makes higher State determined prevailing wage rates ''inapplicable'' to a contract for PHA-performed work. The ''inapplicability'' of these higher State rates represents cost savings to public housing agencies (PHAs) permitting limited resources to go further in addressing much needed maintenance. For this reason, HUD does not propose to revise this requirement. At the same time, there are similar requirements in the development regulations, 24 CFR part 941, and in the modernization regulations, 24 CFR part 968. HUD plans to consolidate these requirements in a single regulation in another rulemaking.

Subpart B, Required Insurance Coverage, was codified for the first time on October 5, 1993. It provides policies concerning insurance coverage required under the Annual Contributions Contract when provided by a qualified PHA-Owned insurance entity, pursuant to the HUD Appropriations Act of 1992. A comprehensive review of this subpart indicates that its provisions are the minimum necessary to implement the statutory provisions. No further simplification or streamlining is necessary, except to remove a cross-reference to a provision of the Annual Contributions Contract (ACC), since a new, completely revised ACC with different numbering of the provisions is now being adopted.

Three subparts of this part have a bearing on the Federal government's utility costs associated with the public housing program. Subpart C, Energy Audits and Energy Conservation Measures, deals with a subject that is critical to the long term success, viability and livability of public housing. Conducting energy audits and installation of energy conservation measures has a significant financial impact for both PHAs and the Department. Approximately $1.5 billion is spent on public housing utility costs annually, most of which is paid by the Federal government. As a result, the current requirement to conduct energy audits and install cost effective energy conservation measures is judicious. At the same time, HUD's review of this subpart reveals that it can be simplified. In revising the text of this subpart, HUD gave consideration to the final rule published in the Federal Register on April 10, 1995 regarding Indian Housing Program Amendments, 24 CFR Parts 905 and 950 (60 FR 18174, 18268). HUD's

Office of Native American Programs reduced the size and scope of the comparable portion of its rule (now 24 CFR 950.805 through 950.825) to a reasonable level that still ensures that energy conservation is appropriately addressed. Accordingly, this subpart is proposed to be revised in substantially the same manner as part 950.

A second subpart of this part that has an effect on utility costs is subpart D, Individual Metering of Utilities for Existing PHA-Owned Projects. Public housing agencies spend over $1 billion each year for utility costs, a substantial portion of which is funded by Federal operating subsidies. It is appropriate that HUD require PHAs to take reasonable steps to reduce these utility costs. One significant step is determining the extent to which it is cost effective to individually meter projects and require residents to pay utility costs directly, as is currently required by subpart D. Because of its impact on the cost of public housing to the Federal government, HUD is retaining this requirement in substantially its current form. HUD does believe that some streamlining is possible. The revised language is consistent with the new Indian Programs rule at §§ 950.840 through 950.850. (See 60 FR 18268–18269.)

HUD is proposing to eliminate the purpose and definitions sections because they are self-evident. This rule also proposes to eliminate much of the technical language now contained in § 965.404. The language of the current § 965.407 concerning PHA consultation with resident organizations, which is advisory only, is revised to reflect the Department's intent that it be mandatory.

The third subpart with an impact on utility costs is subpart E, Tenant Allowances for Utilities. To the extent individual metering or checkmetering is determined cost effective, it is necessary for a PHA to establish resident allowances for utilities. The current subpart E provides a broad framework and allows PHAs the flexibility to determine the appropriate allowances. This philosophy is consistent with the principles of the reinvention of government. As a result, HUD will retain subpart E substantially in its current form. However, HUD believes that some streamlining is possible. Revisions similar to those made in the new Indian Programs rule at §§ 950.860 through 950.876 (60 FR 18269–18270) have been made to eliminate the much of the purpose, applicability, definitions and other unnecessary language.

Subpart F, Modernization of Oil-Fired Heating Plants, was issued in 1980 to implement a statutory set-aside of $25 million to modernize oil-fired heating equipment. This subpart is now obsolete and is proposed to be removed.

HUD plans to consolidate Subpart H, Lead-Based Paint Poisoning Prevention, with similar provisions for other HUD programs. However, that change will be made in a separate rule.

Subpart I, Fire Safety, will be revised in a separate rule that updates provisions throughout HUD rules that deal with this subject. [HUD published amendments to a number of assisted housing rules on July 30, 1992, to ensure that residents are protected from fire hazards. On October 26, 1992, Congress passed the Fire Administration Authorization Act of 1992 (Pub. L. 102–522), which prohibits the use of housing assistance in connection with certain assisted and insured properties, unless various fire protection and safety standards are met. The fire protection and safety standards prescribed by the statute add requirements beyond those contained in this subpart.]

IV. Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this proposed rule, and, in so doing, certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule streamlines and reduces the existing administrative burden on PHAs, regardless of whether the recipient is categorized as a large entity or a small entity.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, Federalism, has determined that this proposed rule will not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government. The proposed rule does not effect the autonomy of local PHAs. Instead, it streamlines and eliminates requirements currently in effect.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the proposed rule will not have a significant impact on family formation, maintenance, and well-being, and, therefore, is not subject to review under the Order.

Catalog

The Catalog of Federal Domestic Assistance numbers for the public housing program is 14.850.

Public Reporting Burden

The public reporting burden for the information collections contained in this proposed rule are shown in a chart below. These estimates include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

TABULATION OF ANNUAL REPORTING BURDEN—PROPOSED RULE STREAMLINING PUBLIC HOUSING MAINTENANCE AND OPERATIONS

Description of info. coll.	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total ann. responses	Hrs. per response	Total hours
Energy audits every 5 years	965.302	3,400	1/5	700	2	1,400
Review of energy contracting soli-citations and contracts	965.308	10	1	10	8	80
Benefit/cost analysis	965.402	1,360	1/3	454	2	908
Review of util. allowances	965.507	1,924	1	1,924	2	3,848
Total Annual Burden (Reduction from current burden of 1,764 hours)	.....	.....	.....	.....	.....	6,236

List of Subjects in 24 CFR Part 965

Grant programs—housing and community development, Housing, Loan programs—housing and community requirements, Small businesses.

Accordingly, 24 CFR part 965, is proposed to be amended as follows:

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

1. The authority citation for part 965 continues to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437d, 1437g, 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

§ 965.205 [Amended]

2. In subpart B, § 965.205 is amended by removing the phrase ''(in section 305 of the ACC)'' from the first sentence in paragraph (a).

§§ 965.303, 965.309, 965.310, 965.315 [Removed]

3. In subpart C, §§ 965.301, 965.302, and 965.304 through 965.308 are revised, and §§ 965.303, 965.309, 965.310, and 965.315 are removed, to read as follows:

Subpart C—Energy Audits and Energy Conservation Measures

§ 965.301 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart is to implement HUD policies in support of national energy conservation goals by requiring PHAs to conduct energy audits and undertake certain cost-effective energy conservation measures.

(b) *Applicability.* The provisions of this subpart apply to all PHAs with PHA-owned housing, but they do not apply to Indian Housing Authorities. (For similar provisions applicable to Indian housing, see part 950 of this chapter.) No PHA-leased project or Section 8 Housing Assistance Payments Program project, including PHA-owned Section 8 projects, is covered by this subpart.

§ 965.302 Requirements for energy audits.

All PHAs shall complete an energy audit for each PHA-owned project under management, not less than once every five years. Standards for energy audits shall be equivalent to State standards for energy audits or as approved by HUD. Energy audits shall analyze all of the energy conservation measures, and the payback period for these measures, that are pertinent to the type of buildings and equipment operated by the PHA.

§ 965.304 Order of funding.

Within the funds available to a PHA, energy conservation measures should be accomplished with the shortest pay-back periods funded first. A PHA may make adjustments to this funding order because of insufficient funds to accomplish high-cost energy conservation measures (ECM), or a situation in which an ECM with a longer pay-back period can be more efficiently installed in conjunction with other planned modernization. A PHA may not install individual utility meters that measure the energy or fuel used for space heating in dwelling units that need substantial weatherization, when installation of meters would result in economic hardship for residents. In these cases, the ECMs related to weatherization shall be accomplished before the installation of individual utility meters.

§ 965.305 Funding.

(a) The cost of accomplishing cost-effective energy conservation measures, including the cost of performing energy audits, shall be funded from operating funds of the PHA to the extent feasible. When sufficient operating funds are not available for this purpose, such costs are eligible for inclusion in a modernization program, for funding from any available development funds in the case of projects still in development, or for other available funds that HUD may designate to be used for energy conservation.

(b) If an PHA finances energy conservation measures from sources other than modernization or operating reserves, such as on the basis of a promise to repay, HUD may agree to provide adjustments in its calculation of the PHA's operating subsidy eligibility under the PFS for the project and utility involved if the financing arrangement is cost-beneficial to HUD. (See § 990.107(g) of this chapter.)

§ 965.306 Energy conservation equipment and practices.

In purchasing original or, when needed, replacement equipment, PHAs shall acquire only equipment that meets or exceeds the minimum efficiency requirements established by the U.S. Department of Energy. In the operation of their facilities, PHAs shall follow operating practices directed to maximum energy conservation.

§ 965.307 Compliance schedule.

All energy conservation measures determined by energy audits to be cost effective shall be accomplished as funds are available.

§ 965.308 Energy performance contracts.

(a) *Method of procurement.* Energy performance contracting shall be conducted using one of the following methods of procurement:

(1) Competitive proposals (see 24 CFR 85.36(d)(3)). In identifying the evaluation factors and their relative importance, as required by § 85.36 (d)(3)(i) of this title, the solicitation shall state that technical factors are significantly more important than price (of the energy audit); or

(2) If the services are available only from a single source, noncompetitive proposals (see 24 CFR 85.36 (d)(4)(i)(A)).

(b) *HUD Review.* Solicitations for energy performance contracting shall be submitted to the HUD Field Office for review and approval prior to issuance.

Energy performance contracts shall be submitted to the HUD Field Office for review and approval before award.

§§ 965.408, 965.409, 965.410 [Removed]

4. In subpart D, §§ 965.401 through 965.407 are revised, and §§ 965.408, 965.409, and 965.410 are removed, to read as follows:

Subpart D—Individual Metering of Utilities for Existing PHA-Owned Projects

§ 965.401 Individually metered utilities.

(a) All utility service shall be individually metered to residents, either through provision of retail service to the residents by the utility supplier or through the use of checkmeters, unless:

(1) Individual metering is impractical, such as in the case of a central heating system in an apartment building;

(2) Change from a mastermetering system to individual meters would not be financially justified based upon a benefit/cost analysis; or

(3) Checkmetering is not permissible under State or local law, or under the policies of the particular utility supplier or public service commission.

(b) If checkmetering is not permissible, retail service shall be considered. Where checkmetering is permissible, the type of individual metering offering the most savings to the PHA shall be selected.

§ 965.402 Benefit/cost analysis.

(a) A benefit/cost analysis shall be made to determine whether a change from a mastermetering system to individual meters will be cost effective, except as otherwise provided in § 965.405.

(b) Proposed installation of checkmeters shall be justified on the basis that the cost of debt service (interest and amortization) of the estimated installation costs plus the operating costs of the checkmeters will be more than offset by reduction in future utilities expenditures to the PHA under the mastermeter system.

(c) Proposed conversion to retail service shall be justified on the basis of net savings to the PHA. This determination involves making a comparison between the reduction in utility expense obtained through eliminating the expense to the PHA for PHA-supplied utilities and the resultant allowance for resident-supplied utilities, based on the cost of utility service to the residents after conversion.

§ 965.403 Funding.

The cost to change mastermeter systems to individual metering of resident consumption, including the costs of benefit/cost analysis and complete installation of checkmeters, shall be funded from operating funds of the PHA to the extent feasible. When sufficient operating funds are not available for this purpose, such costs are eligible for inclusion in a modernization project or for funding from any available development funds.

§ 965.404 Order of conversion.

Conversions to individually metered utility service shall be accomplished in the following order when a PHA has projects of two or more of the designated categories, unless the PHA has a justifiable reason to do otherwise, which shall be documented in its files.

(a) In projects for which retail service is provided by the utility supplier and the PHA is paying all the individual utility bills, no benefit/cost analysis is necessary, and residents shall be billed directly after the PHA adopts revised payment schedules providing appropriate allowances for resident-supplied utilities.

(b) In projects for which checkmeters have been installed but are not being utilized as the basis for determining utility charges to the residents, no benefit/cost analysis is necessary. The checkmeters shall be used as the basis for utility charges and residents shall be surcharged for excess utility use.

(c) Projects for which meter loops have been installed for utilization of checkmeters shall be analyzed both for the installation of checkmeters and for conversion to retail service.

(d) Low- or medium-rise family units with a mastermeter system should be analyzed for both checkmetering and conversion to retail service, because of their large potential for energy savings.

(e) Low- or medium-rise housing for elderly should next be analyzed for both checkmetering and conversion to retail service, since the potential for energy saving is less than for family units.

(f) Electric service under mastermeters for high-rise buildings, including projects for the elderly, should be analyzed for both use of retail service and of checkmeters.

§ 965.405 Actions affecting residents.

(a) Before making any conversion to retail service, the PHA shall adopt revised payment schedules, providing appropriate allowances for the resident-supplied utilities resulting from the conversion.

(b) Before implementing any modifications to utility services arrangements with the residents or charges with respect thereto, the requisite changes shall be made in resident dwelling leases in accordance with 24 CFR part 966.

(c) PHAs must work closely with resident organizations, to the extent practicable, in making plans for conversion of utility service to individual metering, explaining the national policy objectives of energy conservation, the changes in charges and rent structure that will result, and the goals of achieving an equitable structure that will be advantageous to residents who conserve energy.

(d) A transition period of at least six months shall be provided in the case of initiation of checkmeters, during which residents will be advised of the charges but during which no surcharge will be made based on the readings. This trial period will afford residents ample notice of the effects the checkmetering system will have on their individual utility charges and also afford a test period for the adequacy of the utility allowances established.

(e) During and after the transition period, PHAs shall advise and assist residents with high utility consumption on methods for reducing their usage. This advice and assistance may include counseling, installation of new energy conserving equipment or appliances, and corrective maintenance.

§ 965.406 Benefit/cost analysis for similar projects.

PHAs with more than one project of similar design and utilities service may prepare a benefit/cost analysis for a representative project. A finding that a change in metering is not cost effective for the representative project is sufficient reason for the PHA not to perform a benefit/cost analysis on the remaining similar projects.

§ 965.407 Reevaluations of mastermeter systems.

Because of changes in the cost of utility services and the periodic changes in utility regulations, PHAs with mastermeter systems are required to reevaluate mastermeter systems without checkmeters by making benefit/cost analyses at least every 36 months. These analyses may be omitted under the conditions specified in § 965.406.

5. Subpart E is revised to read as follows:

Subpart E—Resident Allowances for Utilities

Sec.

Subpart E—Resident Allowances for Utilities

§ 965.501 Applicability.

(a) This subpart applies to public housing, including Turnkey III Homeownership Opportunities program. This subpart also applies to units assisted under sections 10(c) and 23 of the U. S. Housing Act of 1937 as in effect before amendment by the Housing and Community Development Act of 1974 and to which 24 CFR part 900 is not applicable. This subpart does not apply to Indian housing projects (see 24 CFR part 950).

(b) In rental units for which utilities are furnished by the PHA but there are no checkmeters to measure the actual utilities consumption of the individual units, residents shall be subject to charges for consumption of resident-owned major appliances, or for optional functions of PHA-furnished equipment, in accordance with § 965.502(e) and 965.506(b), but no utility allowance will be established.

§ 965.502 Establishment of utility allowances by PHAs.

(a) PHAs shall establish allowances for PHA-furnished utilities for all checkmetered utilities and allowances for resident-purchased utilities for all utilities purchased directly by residents from the utilities suppliers.

(b) The PHA shall maintain a record that documents the basis on which allowances and scheduled surcharges, and revisions thereof, are established and revised. Such record shall be available for inspection by residents.

(c) The PHA shall give notice to all residents of proposed allowances, scheduled surcharges, and revisions thereof. Such notice shall be given, in the manner provided in the lease or homebuyer agreement, not less than 60 days before the proposed effective date of the allowances or scheduled surcharges or revisions; shall describe with reasonable particularity the basis for determination of the allowances, scheduled surcharges, or revisions, including a statement of the specific items of equipment and function whose utility consumption requirements were included in determining the amounts of the allowances or scheduled surcharges; shall notify residents of the place where the PHA's record maintained in accordance with paragraph (b) of this section is available for inspection; and shall provide all residents an opportunity to submit written comments during a period expiring not less than 30 days before the proposed effective date of the allowances or scheduled surcharges or revisions. Such written comments shall be retained by the PHA and shall be available for inspection by residents.

(d) Schedules of allowances and scheduled surcharges shall not be subject to approval by HUD before becoming effective, but will be reviewed in the course of audits or reviews of PHA operations.

(e) The PHA's determinations of allowances, scheduled surcharges, and revisions thereof shall be final and valid unless found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

§ 965.503 Categories for establishment of allowances.

Separate allowances shall be established for each utility and for each category of dwelling units determined by the PHA to be reasonably comparable as to factors affecting utility usage. The PHA will establish allowances for different size units, in terms of numbers of bedrooms. Other categories may be established at the discretion of the PHA.

§ 965.504 Period for which allowances are established.

(a) *PHA-furnished utilities.* Allowances will normally be established on a quarterly basis; however, residents may be surcharged on a monthly basis. The allowances established may provide for seasonal variations.

(b) *Resident-purchased utilities.* Monthly allowances shall be established at a uniform monthly amount based on an average monthly utility requirement for a year; however, if the utility supplier does not offer residents a uniform payment plan, the allowances established may provide for seasonal variations.

§ 965.505 Standards for allowances for utilities.

(a) The objective of a PHA in designing methods of establishing utility allowances for each dwelling unit category and unit size shall be to approximate a reasonable consumption of utilities by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

(b) Allowances for both PHA-furnished and resident-purchased utilities shall be designed to include such reasonable consumption for major equipment or for utility functions furnished by the PHA for all residents (e.g., heating furnace, hot water heater), for essential equipment whether or not furnished by the PHA (e.g., range and refrigerator), and for minor items of equipment (such as toasters and radios) furnished by residents.

(c) The complexity and elaborateness of the methods chosen by the PHA, in its discretion, to achieve the foregoing objective will depend upon the data available to the PHA and the extent of the administrative resources reasonably available to the PHA to be devoted to the collection of such data, the formulation of methods of calculation, and actual calculation and monitoring of the allowances.

(d) In establishing allowances, the PHA shall take into account relevant factors affecting consumption requirements, including:

(1) The equipment and functions intended to be covered by the allowance for which the utility will be used. For instance, natural gas may be used for cooking, heating domestic water, or space heating, or any combination of the three.

(2) The climatic location of the housing projects.

(3) The size of the dwelling units and the number of occupants per dwelling unit.

(4) Type of construction and design of the housing project.

(5) The energy efficiency of PHA-supplied appliances and equipment.

(6) The utility consumption requirements of appliances and equipment whose reasonable consumption is intended to be covered by the total resident payment.

(7) The physical condition, including insulation and weatherization, of the housing project.

(8) Temperature levels intended to be maintained in the unit during the day and at night, and in cold and warm weather.

(9) Temperature of domestic hot water.

(e) If a PHA installs air conditioning, it shall provide, to the maximum extent economically feasible, systems that give residents the option of choosing to use air conditioning in their units. The design of systems that offer each resident the option to choose air conditioning shall include retail meters or checkmeters and residents shall pay for the energy used in its operation. For systems that offer residents the option to choose air conditioning, the PHA shall not include air conditioning in the utility allowances. For systems that offer residents the option to choose air conditioning but can not be checkmetered, residents are to be

surcharged in accordance with § 965.506. If an air condition system does not provide for resident option, residents are not to be charged and these systems should be avoided whenever possible.

§ 965.506 Surcharges for excess consumption of PHA-furnished utilities.

(a) For dwelling units subject to allowances for PHA-furnished utilities where checkmeters have been installed, the PHA shall establish surcharges for utility consumption in excess of the allowances. Surcharges may be computed on a straight per unit of purchase basis (e.g., cents per kilowatt hour of electricity) or for stated blocks of excess consumption, and shall be based on the PHA's average utility rate. The basis for calculating such surcharges shall be described in the PHA's schedule of allowances. Changes in the dollar amounts of surcharges based directly on changes in the PHA's average utility rate shall not be subject to the advance notice requirements of this section.

(b) For dwelling units served by PHA-furnished utilities where checkmeters have not been installed, the PHA shall establish schedules of surcharges indicating additional dollar amounts residents will be required to pay by reason of estimated utility consumption attributable to resident-owned major appliances or to optional functions of PHA-furnished equipment. Such surcharge schedules shall state the resident-owned equipment (or functions of PHA-furnished equipment) for which surcharges shall be made and the amounts of such charges, which shall be based on the cost to the PHA of the utility consumption estimated to be attributable to reasonable usage of such equipment.

§ 965.507 Review and revision of allowances.

(a) *Annual review.* The PHA shall review at least annually the basis on which utility allowances have been established and, if reasonably required in order to continue adherence to the standards stated in § 965.505 shall establish revised allowances. The review shall include all changes in circumstances (including completion of modernization and/or other energy conservation measures implemented by the PHA) indicating probability of a significant change in reasonable consumption requirements and changes in utility rates.

(b) *Revision as a result of rate changes.* The PHA may revise its allowances for resident-purchased utilities between annual reviews if there is a rate change (including fuel adjustments) and shall be required to do so if such change, by itself or together with prior rate changes not adjusted for, results in a change of 10 percent or more from the rates on which such allowances were based. Adjustments to resident payments as a result of such changes shall be retroactive to the first day of the month following the month in which the last rate change taken into account in such revision became effective.

§ 965.508 Individual relief.

Requests for relief from surcharges for excess consumption of PHA-purchased utilities, or from payment of utility supplier billings in excess of the allowances for resident-purchased utilities, may be granted by the PHA on reasonable grounds, such as special needs of elderly, ill or disabled residents, or special factors affecting utility usage not within the control of the resident, as the PHA shall deem appropriate. The PHA's criteria for granting such relief, and procedures for requesting such relief, shall be adopted at the time the PHA adopts the methods and procedures for determining utility allowances. Notice of the availability of such procedures (including identification of the PHA representative with whom initial contact may be made by residents), and the PHA's criteria for granting such relief, shall be included in each notice to residents given in accordance with § 965.502(c) and in the information given to new residents upon admission.

Dated: August 24, 1995.

MaryAnn Russ,

Director, Office of Assisted Housing.

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Federal Register

Monday
September 25, 1995

Part VII

The President

Proclamation 6826—Gold Star Mother's Day, 1995

Federal Register
Vol. 60, No. 185
Monday, September 25, 1995

Presidential Documents

Title 3—

The President

Proclamation 6826 of September 21, 1995

Gold Star Mother's Day, 1995

By the President of the United States of America

A Proclamation

Countless Americans have traveled to Washington, D.C., to visit the new Korean War Veterans Memorial and to pay their respects at the many other monuments honoring the members of our Armed Forces. These sites are places for reflection, pride, and patriotism, not only for the men and women who served and those who lost loved ones, but also for every citizen who values the sacrifices to which these monuments bear witness.

As we look upon America's public memorials, we also remember the unseen tributes that dwell in homes and hearts across the country—the personal mementos and memories treasured by mothers who have lost a child in military service. Our Gold Star Mothers reflect the legacy of their sons' and daughters' bravery and ensure that their children will never be forgotten—that their courage will inspire new generations.

Watching a beloved child go off to war is one of the hardest things a parent can endure. America's Gold Star Mothers proudly stood this test and suffered the terrible anxiety of waiting for word of their loved ones. Each of these heroic women was also called upon to bear the greatest hardship of all—the cruel truth that her son or daughter would never return.

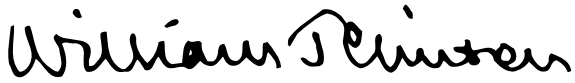
These mothers gave their most cherished gift so that our Nation could live in liberty and so that people around the globe could be freed from tyranny and oppression. And Gold Star Mothers continue a proud tradition of service, helping veterans with disabilities through voluntary service in VA medical facilities. Bringing comfort to those who suffered for our country, Gold Star Mothers exemplify the gratitude and honor each citizen owes to America's veterans.

This year, the 50th anniversary of the end of World War II, evokes many powerful emotions—pride in victory, sorrow in loss, and hope for a future of world peace. At times such as these, we join with Gold Star Mothers in remembering their children's dedication to duty and their ultimate sacrifice. We pray that these mothers can find solace in knowing that their sons and daughters helped to keep the beacon of peace and freedom burning, lighting the way to a better world.

In recognition of the outstanding courage of our Gold Star Mothers, the Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895), has designated the last Sunday in September as ''Gold Star Mother's Day'' and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim September 24, 1995, as Gold Star Mother's Day. I call upon the American people to observe this day with appropriate programs, ceremonies, and activities that honor our Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and twentieth.



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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1995. The CFR volume issued July 1, 1991, should be retained.

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